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MEMBERSHIP

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CONTAINING

THE NEW MEMBERSHIP AND CHURCH CORPORATION LAWS, AS REVISED BY THE STATUTORY REVISION COMMISSION AND ENACTED BY THE LEGISLATURE OF 1895, THE FORMER LAWS REPEALED THEREBY, AND SUPPLEMENTAL ACTS AND CODE PROVISIONS RELATING TO SUCH CORPORATIONS, THOROUGHLY ANNOTATED, WITH CITATIONS FROM THE DECISIONS OF THE COURTS, EXPLANATORY NOTES AND CROSS REFERENCES INDICATING THE SOURCES OF THE NEW LAW AND THE DISPOSITION OF THE OLD, WITH AMENDMENTS OF 1896 TO 1903, INCLUSIVE, AND TAX LAW AS AMENDED.

TOGETHER WITH FORMS.

By ROBERT O. CUMMING and FRANK E. GILBERT,
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Revised by Albert J. Depaker.

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PREFACE

The Legislature of 1895 enacted a complete revision of the laws of the State relating to membership and religious corporations, as reported to it by the Commission of Statutory Revision. The Membership Corporations Law revises and re-enacts, with many changes and omissions, the former laws relating to non-business corporations generally, including social clubs, cemeteries, Christian associations, prevention of cruelty corporations and agricultural societies, while the Religious Corporations Law pertains to churches and all other corporations of a religious nature. The importance of understanding the changes in the statute laws of the State, upon these subjects, can not be underestimated. The authors have endeavored, with the assistance of the notes contained in the report of the commissioners, to indicate every change in the law, as well as the omission of matter repealed, but not re-enacted, with the reasons therefor. The explanatory note preceding each law and the annotations at the end of the sections of the former laws in the appendices indicating the disposition thereof, are the notes of the commissioners, preserved without change. The whole work has been thoroughly annotated with the decisions of the courts to date; and carefully prepared forms will be found at the end of the book, to which references are made at the end of the sections to which they relate.

The references at the end of the sections are to the Revised Statutes, eighth edition, and supplemental volume.

Albany, June 25, 1895.

R. C. CUMMING.

F. B. GILBERT.

DRAWN
FROM
MEMORY

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THE STATUTORY CONSTRUCTION LAW.

LAWS OF 1892, CHAPTER 677.

AN ACT relating to the construction of statutes, constituting chapter one of the general laws.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER I OF THE GENERAL LAWS.

THE STATUTORY CONSTRUCTION LAW.

Section 1. Short title; extent of application.
2. Property.
3. Real property.
4. Personal property.
5. Person.
6. Judge
7. Lunacy; idiocy.
8. Gender; number; tense
9. Heretofore; hereafter; now
10. Last; preceding; next; following.
11. Folio.
12. Writing; signature.
13. Seal.
14. Oath; affidavit; swear.
15. Acknowledge; acknowledgment.
16. Bond; undertaking.
17. Choose; elect; appoint.
18. Board composed of one person.
19. Meeting; quorum; powers of majority.
20. Service of notice upon board or body.
21. County clerk; register.
22. Village.
23. State.

Section 24. Public holiday; half-holiday.
25. Year.
26. Month.
27. Day; mode of computing days; night-time.
28. Standard time.
29. Civil and criminal codes.
30. Laws of England and of the colony of New York.
31. Limiting the effect of repealing statutes.
32. Effect of repeal and re-enactment.
33. Effect of revision upon laws passed at same session or before revision takes effect.
34. Alterations of titles and head notes
35. Laws repealed.
36. Time of taking effect.

Section 1. Short title; extent of application.— This chapter shall be known as the statutory construction law, and is applicable to every statute unless its general object or the context of the language construed, or other provisions of law indicate that a different meaning or application was intended from that required to be given by this chapter.

§ 2. Property.—The term property includes real and personal property.

§ 3. Real property.—The term real property includes real estate, lands, tenements and hereditaments, corporeal and incorporeal.

§ 4. Personal property.—The term personal property includes chattels, money, things in action, and all written instruments themselves, as distinguished from the rights or interests to which they relate, by which any right, interest, lien or incumbrance in, to or upon property, or any debt or financial obligation is created, acknowledged, evidenced, transferred, discharged or defeated, wholly or in part, and everything, except real property, which may be the subject of ownership. The term chattels includes goods and chattels.

§ 5. Person.—The term person includes a corporation and a joint stock association. When used to designate a party whose property may be the subject of any offense, the term person also includes the state, or any other state, government or country which may lawfully own property in the state.

§ 6. **Judge**—The term judge includes every judicial officer authorized, alone or with others, to hold or preside over a court of record.

§ 7. **Lunacy; idiocy.**—The terms lunatic and lunacy include every kind of unsoundness of mind except idiocy.

§ 8. **Gender; number tense**—Words of the masculine gender include the feminine and the neuter, and may refer to a corporation, or to a board or other body or assemblage of persons; and, when the sense so indicates, words of the neuter gender may refer to any gender. The term men includes boys and the term women includes girls.

Words in the singular number include the plural, and in the plural number include the singular.

Words in the present tense include the future.

§ 9. **Heretofore; hereafter; now.**—Each of the terms, heretofore, and hereafter, in any provision of a statute, relates to the time such provision takes effect. The term now in any provision of a statute referring to other laws in force, or to persons in office, or to any facts or circumstances as existing, relates to the laws in force, or the person in office, or to the facts or circumstances existing, respectively, immediately before the taking effect of such provision.

§ 10. **Last; preceding; next; following.**—A reference to the last or preceding section, or other provision of a statute, means the section or other division immediately preceding, and a reference to the next or following section or other division of a statute means the section or other division immediately following.

§ 11. **Folio.**—A folio is one hundred words, counting as a word each figure necessarily used.

§ 12. **Writing; signature.**—The terms writing and written include every legible representation of letters upon a material substance, except when applied to the signature of an instrument. The term signature includes any memorandum, mark or sign, written or placed upon any instrument or writing with intent to execute or authenticate such instrument or writing.

§ 13. **Seal.**—The private seal of a person, other than a corporation, to any instrument or writing shall consist of a wafer, wax or

other similar adhesive substance affixed thereto, or of paper or other similar substance affixed thereto, by mucilage or other adhesive substance, or of the word "seal," or the letters "L. S.," opposite the signature.

A seal of a court, public officer or corporation may be impressed directly upon the instrument or writing to be sealed, or upon wafer, wax or other adhesive substance affixed thereto, or upon paper or other similar substance affixed thereto by mucilage or other adhesive substance. An instrument or writing duly executed, in the corporate name of a corporation, which shall not have adopted a corporate seal, by the proper officers of the corporation under their private seals, shall be deemed to have been executed under the corporate seal.

§ 14. **Oath; affidavit; swear.**—The terms oath and affidavit include every mode authorized by law of attesting the truth of that which is stated.

The term swear includes every mode authorized by law for administering an oath. When an affidavit is authorized or required it may be sworn to before any officer authorized by law to take the acknowledgment of deeds in this state, unless a particular officer is specified before whom is is to be taken.

§ 15. **Acknowledge; acknowledgment.**—When the execution of any instrument or writing is authorized or required by law to be acknowledged, or to be proven so as to entitle it to be filed or recorded in a public office, the acknowledgment may be taken or the proof made before any officer then and there authorized to take the acknowledgment or proof of the execution of a deed of real property to entitle it to be recorded in a county clerk's office, and shall be made and certified in the same manner as such acknowledgment or proof of such deed.

The term acknowledge and acknowledgment, when used with reference to the execution of an instrument or writing other than a deed of real property, includes a compliance with the provisions of this section by either such proof or acknowledgment.

§ 16. **Bonds; undertakings.**—A provision of law authorizing or requiring a bond to be given shall be deemed to have been complied with by the execution of an undertaking to the same effect.

§ 17. Choose; elect; appoint.—The term choose includes elect and appoint.

§ 18. Board composed of one person.—A reference to several officers of a municipal corporation holding the same office, or to a board of such officers, shall be deemed to refer to the single officer holding such office, when but one person is chosen to fill such office in pursuance of law

§ 19. Meeting; quorum; powers of majority.—Whenever three or more public officers are given any power or authority, or three or more persons are charged with any public duty to be performed or exercised by them jointly or as a board or similar body, a majority of all such persons or officers at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board or body, or at any duly adjourned meeting of such meeting, or at any meeting duly held upon reasonable notice to all of them, may perform and exercise such power, authority or duty, and if one or more of such persons or officers shall have died or have become mentally incapable of acting, or shall refuse or neglect to attend any such meeting, a majority of the whole number of such persons or officers shall be a quorum of such board or body, and a majority of a quorum, if not less than a majority of the whole number of such persons or officers, may perform and exercise any such power, authority or duty. Any such meeting may be adjourned by a less number than a quorum. A recital in any order, resolution or other record of any proceeding of such a meeting that such meeting had been so held or adjourned, or that it had been held upon such notice to the members, shall be presumptive evidence thereof.

§ 20. Service of notice upon body or board.—When a notice is required to be given to a board or body, service of such notice upon the clerk or chairman thereof shall be sufficient.

§ 21. County clerk; Register.—Any act done in pursuance of law by the register of a county shall be deemed to be a compliance with any provision of law authorizing or requiring such act to be done by the county clerk of such county, and any instrument or writing filed, entered or recorded in pursuance of law in the office of a register of a county, shall be deemed to be a compliance with any provision of law authorizing or requiring

such paper to be filed, entered or recorded, as the case may be, in the office of the clerk of such county.

§ 22. Village.—The term village means an incorporated village.

§ 23. State; territory.—The term state, when used generally to include every state of the United States, includes also every territory of the United States and the District of Columbia. The term territory when used generally to include every territory of the United States, includes also the District of Columbia.

§ 24. **Public holidays; half-holidays.**—The term holiday includes the following days in each year; the first day of January, known as New Year's day; the twelfth day of February, known as Lincoln's birthday; the twenty-second day of February known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day; the first Monday of September, known as Labor day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observances. The term, half-holiday, includes the period from noon to midnight of each Saturday which is not a holiday. The days and half days aforesaid shall be considered as the first day of the week, commonly called Sunday, and as public holidays or half-holidays, for all purposes whatsoever as regards the transaction of business in the public offices of this state, or counties of this state. On all other days and half days excepting Sundays, such offices shall be kept open for the transaction of business. Where a contract by its terms requires the payment of money or the performance of a condition on a public holiday, such payment may be made or condition performed on the next business day succeeding such holiday, with the same force and effect as if made or performed in accordance with the terms of the contract

Amended by ch. 614 of 1897. In effect October 1, 1897.

Amended by ch. 39 of 1902. In effect February 20, 1902.

§ 2. Chapter twenty-seven of the laws of eighteen hundred and seventy-five, chapter thirty of the laws of eighteen hundred and eighty-one, chapter two hundred and eighty-nine of the laws of eighteen hundred and eighty-seven and chapter six hundred and three of the laws of eighteen hundred and ninety-five, are hereby repealed.

Chap. 614 of 1897.

§ 25. Year.—Time shall continue to be computed in this state according to the Gregorian or new style. The first day of each year after the year 1752 is the first day of January, according to such style. For the purpose of computing and reckoning the days of the year in the same regular course in the future, every year, the number of which in the Christian era is a multiple of four, is a bisextile or leap year consisting of three hundred and sixty-six days, unless such number of the year is a multiple of one hundred and the first two figures thereof treated as a separate number is not a multiple of four, and every year which is not a leap year is a common year consisting of three hundred and sixty-five days.

The term year in a statute, contract, or any public or private instrument, means three hundred and sixty-five days, but the added day of a leap year and the day immediately preceding

shall for the purpose of such computation be counted as one day.

In a statute, contract or public or private instrument, the term year means twelve months, the term half-year, six months, and the term a quarter of a year, three months.

§ 26. **Month.**—In a statute, contract or public or private instrument, unless otherwise provided in such contract or instrument or by law, the term month means a calendar month and not a lunar month. A number of months after or before a certain day shall be computed by counting such number of calendar months from such day, exclusive of the calendar month in which such day occurs, and shall include the day of the month in the last month so counted having the same numerical order in days of the month as the day from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted.

§ 27. **Day; mode of computing days; night-time.**—A calendar day includes the time from midnight to midnight. Sunday or any day of the week specifically mentioned means a calendar day. A number of days specified as a period from a certain day within which or after or before which an act is authorized or required to be done means such number of calendar days exclusive of the calendar day from which the reckoning is made. Sunday or a public holiday other than a half-holiday must be excluded from the reckoning if it is the last day of any such period or if it is an intervening day of any such period of two days. In computing any specified number of days, weeks or months from a specified event, the day upon which the event happens is deemed the day from which the reckoning is made. The day from which any specified number of days, weeks or months of time is reckoned shall be excluded in making the reckoning.

Night-time includes the time from sunset to sunrise. (As amended by L. 1894, ch. 447.)

§ 28. **Standard time.**—The standard time throughout this state is that of the seventy-fifth meridian of longitude west from Greenwich, and all courts and public officers, and legal and

official proceedings, shall be regulated thereby. Any act required by or in pursuance of law to be performed at or within a prescribed time, shall be performed according to such standard time.

§ 29. Civil and Criminal Codes.—The term Civil Code means the Code of Civil Procedure. The term Criminal Code means the Code of Criminal Procedure.

§ 30 Laws of England and of the colony of New York.—A statute of England or Great Britain shall not be deemed to have had any force or effect in this state since May 1, 1788. Acts of the legislature of the colony of New York shall not be deemed to have had any force or effect in this state since December 29, 1828.

The resolutions of the congress of such colony and of the convention of the state of New York, shall not be deemed to be the laws of this state hereafter.

§ 31. Limiting the effect of repealing statutes.—The repeal hereafter or by this chapter of any provision of a statute, which repeals any provision of a prior statute, does not revive such prior provision. The repeal hereafter or by this chapter of any provision of a statute, which amends a provision of a prior statute, leaves such prior provision in force unless the amendatory statute be a substantial re-enactment of the statute amended. The repeal of a statute or part thereof shall not affect or impair any act done or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time such repeal takes effect, but the same may be asserted enforced, prosecuted or inflicted, as fully and to the same extent as if such repeal had not been effected; and all actions and proceedings, civil or criminal, commenced under or by virtue of any provision of a statute so repealed, and pending immediately prior to the taking effect of such repeal, may be prosecuted and defended to final effect in the same manner as they might if such provisions were not so repealed.

§ 32. Effect of repeal and re-enactment.—The provisions of a law repealing a prior law, which are substantial re-enactments of provisions of the prior law, shall be construed as a continua-

tion of such provisions of such prior law, and not as new enactments. If any provision of a law be repealed and, in substance, re-enacted, a reference in any law to such repealed provision shall be deemed a reference to such re-enacted provision. (As amended by L. 1894, ch. 448.)

§ 33. **Effect of revision upon laws passed at same session or before revision takes effect.**—No provision of any chapter of the revision of the general laws, of which this chapter is a part, shall supersede or repeal by implication any law passed at the same session of the legislature at which any such chapter was enacted, or passed after the enactment of any such chapter and before it shall have taken effect; and an amendatory law passed at such session or at any subsequent session begun before any such chapter takes effect, shall not be deemed repealed, unless specifically designated in the repealing schedule of such chapter.

§ 34. **Alterations of titles and head notes.**—If the title of any article or other division of a statute, or the head note of a section shall be amended or repealed in the body of the statute, or if a new article or other division having a title, or a new section having a new head note be added to a statute the corresponding title or head note, if any, in an abstract of contents at the beginning of the article or other division of the statute shall be deemed to be correspondingly amended or repealed, although there be no express reference thereto.

§ 35. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 36. **Time of taking effect.**—This chapter shall take effect immediately.

	Sections repealed.
Revised Statutes, part I, chapter 8, title 8	16.
Revised Statutes, part I, chapter 19, title 1 ...	1, 2, 3, 4, 5.
Revised Statutes, part II, chapter 4, title 2....	3.
Revised Statutes, part II, chapter 4, title 3....	9.
Revised Statutes, part III, chapter 8, title 17..	27.
Revised Statutes, part III, chapter 10, title 4..	4.
Revised Statutes, part IV, chapter 2, title 8...	16.

	Sections repealed.
Laws 1828, second meeting, 51st session, chapter 20	9, 10, 11.
Laws 1828, second meeting, 51st session, chapter 21	3 and 4.
Laws 1857, chapter 536	3.
Laws 1874, chapter 321	All.
Laws 1877, chapter 466	27.
Laws 1884, chapter 14	All.
Laws 1886, chapter 21	20.
Code of Civil Procedure	29, 788, 960 and subdivisions 6, 7, 8, 15, 17, 21, 22, 23 and 24 of section 3343.
Code of Criminal Procedure	955, 956, 957.
Penal Code	261, 500, and subdivisions 9, 10, 11, 12, 13, 14 and 15 of section 718.

THE GENERAL CORPORATION LAW.

LAWS OF 1892, CHAPTER 687.

AN ACT to amend the general corporation law.

Approved by the Governor May 18, 1892. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

The general corporation law is amended to read as follows, to take effect immediately:

CHAPTER XXXV OF THE GENERAL LAWS.

THE GENERAL CORPORATION LAW.

Section 1. Short title.
2. Classification of corporations.
3. Definitions.
4. Qualifications of incorporators.
5. Filing and recording certificates of incorporation.
6. Corporations of the same name prohibited.
7. Amended and supplemental certificates.
8. Lost or destroyed certificates.
9. Certificate and other papers as evidence.
10. Prohibition of other than statutory powers.
11. Grant of general powers.
12. Limitation of amount of property of a non-stock corporation.
13. Acquisition of additional real property.
14. Acquisition of property in other states.
15. Certificate of authority of a foreign corporation.
16. Proof to be filed before granting certificate.
17. Acquisition of real property in this state by certain foreign corporations.
18. Acquisition by foreign corporations of real property in this state upon judicial sales.
19. Prohibition of banking powers.
20. Qualification of members as voters.

Section 21. Proxies.
22. Challenges.
23. Effect of failure to elect directors.
24. Mode of calling special election of directors.
25. Mode of conducting special election of directors.
26. Qualification of voters and canvass of votes at special elections.
27. Powers of supreme court respecting elections.
28. Stay of proceedings in actions collusively brought.
29. Quorum of directors and powers of majority.
30. Directors as trustees in case of dissolution.
31. Forfeiture for non-user.
32. Extension of corporate existence.
33. Conflicting corporate laws.
34. Laws repealed.
35. Saving clause.
36. Construction.
37. Law revived.
38. When notice or lapse of time unnecessary.
39. As to acts of directors.
40. Alteration and repeal of charter.

Section 1. Short title.—This chapter shall be known as the general corporation law.

[The provisions of the general corporation law apply to all corporations formed under or subject to the membership corporations law or the religious corporations law; but section 32 provides, that if, in any case, the provisions of another corporate law (the membership or religious corporations law) conflict with the provisions of the general corporation law, the provisions of such corporate law shall prevail, and the provisions of the general corporation law shall not apply in such case.

The table immediately following the repealing schedule of the general corporation law indicates the sources of the sections thereof.]

§ 2. Classification of corporations.—A corporation shall be either,

1. A municipal corporation,
2. A stock corporation,
3. A non-stock corporation, or
4. A mixed corporation.

A stock corporation shall be either,

1. A monied corporation.
2. A transportation corporation, or
3. A business corporation.

A non-stock corporation shall be either,

1. A religious corporation, or
2. A membership corporation.

A mixed corporation shall be either,

1. A cemetery corporation,
2. A library corporation,
3. A co-operative corporation,
4. A board of trade corporation, or
5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

1. A railroad corporation, or
2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

[The original plan of the revisers to propose a "mixed corporation law," was abandoned, and corporations which are here classified as "mixed corporations" are membership corporations unless they have capital stock, when they are classified as stock corporations. So, also, the plan of including benevolent orders under membership corporations was abandoned.]

§ 3. Definitions.—1. A municipal corporation includes a county, town, school district, village and city, and any other territorial division of the State established by law with powers of local government.

2. A stock corporation is a corporation having a capital stock divided into shares, and which is authorized by law to distribute to the holders thereof dividends or shares of the surplus profits of the corporation. A corporation is not a stock corporation because of having issued certificates called certificates of stock, but which are in fact merely certificates of membership and which is not authorized by law to distribute to its members any dividends or share of profits arising from the operations of the corporation.

3. The term non-stock corporation includes every corporation other than a stock corporation.

4. A moneyed corporation is a corporation formed under or subject to the banking or the insurance law.

5. A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation which is not a domestic corporation is a foreign corporation, except as provided by the Code of Civil Procedure for the purpose of construing such code.

6. The term directors, when used in relation to corporations, shall include trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

7. The term certificate of incorporation shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

8. The term member of a corporation shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

9. The term office of a corporation means its principal office within the state or principal place of business within the state, if it has no principal office therein.

10. The term business of a corporation when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

11. The term corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of this state relating to corporations included in such revision. (Thus amended by L. 1895, ch. 672.)

[The amendment to this section drops therefrom a reference to mixed corporations, provides a clearer definition of a stock corporation in paragraph 2, and of a foreign corporation in paragraph 5, and omits from paragraph 9, the requirement that "the office of a stock corporation shall be in the county, town or city in which its business is principally carried on."]

§ 4. Qualifications of incorporators.—A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and one of them a resident of this state. This section shall not apply to a corporation formed by the reincorporation or consolidatin of existing corporations, or to the reorganization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise. (Thus amended by L. 1895, ch. 672.)

[The amendment to this section by L. 1895, ch. 672, provides that but one of the incorporators need be a resident of the state, while by the former law a majority of residents was requisite.]

§ 5. Filing and recording certificates of incorporation. Every certificate of incorporation including the corporate name or title and every amended or supplemental certificate, and every certificate which alters the provisions of any certificate of incorporation or any amended or supplemental certificate, hereafter executed shall be in the English language, and except of a religious, cemetery, moneyed, municipal or fire department corporation, shall be filed in the office of the secretary of state, and shall be by him duly recorded and indexed in books specially provided therefore; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct. All taxes required by law to be paid before or upon incorporation and the fees for filing and recording such certificate must be paid before filing. No corporation shall excercise any corporate powers or privileges until such taxes and fees have been paid.

Am'd by ch. 672 of 1895. Took effect May 14, 1895.
Am'd by ch. 285 of 1902. In effect March 29, 1902.

[The amendment to this section requires certificates of incorporation to be in the English language.

The secretary of state does not require the certificate of the county clerk as to the authority of the officer who takes the acknowledgment of a certificate of incorporation.

The certificates of incorporation of religious corporations are not required to be filed in the office of the secretary of state. (Religious Corp. L., § 3.)].

§ 6. **Corporate names.**—No certificate of incorporation of a proposed corporation having the same name as a corporation authorized to do business under the laws of this state, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of affecting its incorporation, or of authorizing it to do business in this state. A corporation formed by the reincorporation, reorganization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded. No corporation shall be hereafter organized under the laws of this state, with the word trust, bank, banking, insurance, assurance, indemnity, guarantee, guaranty, savings, investment, loan or benefit as part of its name, except a corporation formed under the banking law or the insurance law.

Am'd by chap. 704 of 1900. Am'd by chap. 9 of 1902. In effect January 30, 1902.

§ 7. **Amended and supplemental certificates.**—If, in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the corporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made, and upon notice to the attorney-general, and to such other persons as the court may direct, and upon such terms

and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

[An amended certificate after reciting the defect which is intended to be remedied, should restate the original certificate, with the error corrected, and after being properly acknowledged, the amended certificate should be filed in the same offices as the original certificate.]

§ 8. **Lost or destroyed certificates.**— If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

§ 9. **Certificate and other papers as evidence.**— The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed or recorded relating to the incorporation of any corporation, or its existence or management, and containing facts required or authorized by law to be stated therein, shall be presumptive evidence of the existence of such facts. (Thus amended by L. 1895, ch. 672.)

[The amendment of 1895, inserts the words "or recorded" after the word "filed." Section 933 of the Code of Civil Procedure, provides that a certified copy of a paper filed, kept, entered or recorded in a public office is evidence as if the original was produced.]

§ 10. **Limitation of powers.**—No corporation shall possess or exercise any corporate powers not given by law, or not necessary to the exercise of the powers so given. The certificate of incorporation of any corporation may contain any pro-

vision for the regulation of the business and the conduct of the affairs of the corporation, and any limitation upon its powers, or upon the powers of its directors and stockholders, which does not exempt them from the performance of any obligation or the performance of any duty imposed by law. (Thus amended by L. 1895, ch. 672.)

[The amendment of 1895 adds all of the section after the first sentence. It enables the incorporators to insert in the certificate any provision which is not in conflict with law. In other words, a corporation is no longer to be limited to powers expressly conferred by statute, but may, by is certificate, assume any power which is not expressly or impliedly denied by statute.]

§ 11. **Grant of general powers.**—Every corporation as such has power, though not specified in the law under which it is incorporated:

1. To have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulations of its affairs, and the transfer of its stock, if it has any, and the calling of meetings of its members. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of the corporation shall control the action of its directors. No by-laws adopted by the board of directors regulating the election of directors or officers shall be valid unless published for at least once a week for two successive weeks in a newspaper in the county where the election is to be held, and at least thirty days before such election. Subdivisions four and five of this

section shall not apply to municipal corporations. (Thus amended by L. 1895, ch. 672.)

[The amendment of 1895, removes an ambiguity by providing that a by-law shall be published "once in each week for two successive weeks," while the former section merely provided that it should be published "for two successive weeks." The power of a non-business corporation to take and hold property is limited by the provisions of § 12 of the general corporation law.]

§ 12. **Enlargement of limitations upon the amount of the property of non-stock corporations.**—If any general or special law heretofore passed, or any certificate of incorporation, shall limit the amount of property a corporation other than a stock corporation may take or hold, such corporation may take and hold property of the value of three million dollars or less, or the yearly income derived from which shall be five hundred thousand dollars or less, notwithstanding any such limitations. In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account. (Thus amended by L. 1894, ch. 400.)

[This section is applicable to all non-stock corporations. Thus, in revising the laws relating to religious and membership corporations, all property limitations have been repealed and not re-enacted.]

§ 13. **Acquisition of additional real property.**—When any corporation shall have sold or conveyed any part of its real property, the supreme court may notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

§ 14. **Acquisition of property without the state.**—Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business. Any domestic corporation establishing or maintaining a charitable, philanthropic or educational institution within this state may also carry on its work and establish or maintain one or more branches of such institution or an additional institution or additional institutions in any other state, the District of Columbia or in any part of the territories or dependencies of the United States of America or in any foreign country and for either of said purposes may take by devise or bequest, hold, purchase, mortgage, sell and convey or otherwise dispose of such real and personal property without this state as may be requisite therefor. But nothing in this section contained shall be construed as exempting from taxation property to any additional amount than is now allowed to such corporation under existing laws.

Am'd by ch. 178 of 1903. In effect April 14, 1903.

[This section operates only so far as our own jurisdiction is concerned. If the statutes of a foreign state or country prohibit such acquisition, a very different question is presented.]

§ 15. Certificate of authority of a foreign corporation.— No foreign stock corporation other than a monied corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within this state subsequent to such date. No foreign stock corporation doing business in this state shall maintain any action in this state upon any contract made by it in this state unless prior to the making of such contract it shall have procured such certificate. This prohibition shall also apply to any assignee of such foreign stock corporation and to any person claiming under such assignee or such foreign stock corporation or under either of them. No certificate of authority shall be granted to any foreign corporation having the same name as an existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive.

Amended by ch. 538 of 1901. In effect Sept. 1, 1901. This section was also amended by ch. 96 of 1901.

[Applies to stock corporations only.]

§ 16. Proof to be filed before granting certificate.— Before granting such certificate the secretary of state shall require every such foreign corporation to file in his office a sworn copy in the English language of its charter or certificate of incorporation and a statement under its corporate seal particularly setting forth the business or objects of the corporation which it is engaged in carrying on or which it proposes to carry on within the state, and a place within the state which is to be its principal place of business, and designating in the manner prescribed in the Code of Civil Procedure a person upon whom process against the corporation may be served within the state. The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an

instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state. If the person so designated dies or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation, may, after such death or removal and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation if its address, or the address of any officer thereof, is known to him. (Thus amended by L. 1895, ch. 672.)

[Applies to stock corporations only.]

§ 17. **Acquisition of real property in this state by certain foreign corporations.**—Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this state, may acquire such real property in this state as may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

[This section does not, of course, extend the powers of a foreign corporation beyond the terms of its charter or the law under which it was created.]

§ 18. **Acquisition by foreign corporations of real property in this state.**—Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or upon any judgment or decree for debts due it, or upon any settlement to secure such debts, any real property within this state covered

by or subject to such mortgage, judgment, decree or settlement, and may take by devise any real property situated within this state, and hold the same for not exceeding five years from the date of such purchase, or from the time when the right to the possession thereof vests in such devisee, and convey it by deed or otherwise, in the same manner as a domestic corporation. (Thus amended by L. 1894, ch. 136.)

§ 19. **Prohibition of banking powers.**—No corporation, except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidence of debt for circulation as money.

§ 20. **Qualification of members as voters.**—Unless otherwise provided in the certificate of incorporation, every stockholder of record of a stock corporation shall be entitled at every meeting of the corporation to one vote for every share of stock standing in his name on the books of the corporation; and at every meeting of a non-stock corporation, every member, unless disqualified by the by-laws, shall be entitled to one vote. The stockholders of a stock corporation, by a by-law adopted by vote at any annual meeting, or at any special meeting duly called for such purpose, may prescribe a period, not exceeding forty days prior to meetings of the stockholders, during which no transfer of stock on the books of the corporation may be made. Except in cases of express trust, or in which other provision shall have been made by written agreement between the parties, the record holder of stock which shall be held by him as security, or which shall actually belong to another, upon demand therefor and payment of necessary expenses thereof, shall issue to such pledger or to such actual owner of such stock, a proxy to vote thereon. The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any two or more of them as he may see fit, which right, when exercised, shall be termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April thirty, eighteen hundred and ninety-one, were entitled to the exercise of such right may hereafter exercise such right according to the provision of this section.

A stockholder may, by agreement in writing, transfer his stock to any person or persons for the purpose of vesting in him or them the right to vote thereon for a time not exceeding five years upon terms and conditions stated, pursuant to which such person or persons shall act; every other stockholder, upon his request therefor, may, by a like agreement in writing also transfer his stock to the same person or persons and thereupon may participate in the terms, conditions and privileges of such agreement; the certificates of stock so transferred shall be surrendered and cancelled and certificates therefor issued to such transferee or transferees in which it shall appear that they are issued pursuant to such agreement and in the entry of such transferee or transferees as owners of such stock in the proper books of said corporation that fact shall also be noted and thereupon he or they may vote upon the stock so transferred during the time in such agreement specified; a duplicate of every such agreement shall be filed in the office of the corporation where its principal business is transacted and be open to the inspection of any stockholder, daily, during business hours. No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or any thing of value. The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

Amended by ch. 355 of 1901. In effect April 16, 1901.

§ 21. **Proxies.**— Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revokable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

[See Form, No. 1.]

This section prohibits members of a religious corporation from voting by proxy.]

persons who may act as proxies for members, and the length of time for which proxies may be executed.

[See Form, No. 1.]

[This section prohibits members of a religious corporation from voting by proxy.]

§ 22. **Challenges.**—Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly received any promise or any sum of money or anything of value to influence the giving of my vote or votes at this meeting or as a consideration therefor." Any person offering to vote as proxy for any other person shall present his proxy and, if so required, take and subscribe the following oath: "I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or anything of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or anything of value to influence the giving of my vote at this meeting, or as a consideration therefor." The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation.

Amended by ch. 355 of 1901. In effect April 16, 1901.

[The amendment of 1895, provides that the oath may state that stocks or bonds are pledged.]

§ 23. **Effect of failure to elect directors.**—If the directors shall not be elected on the day designated in the by-laws, or by law, the corporation shall not for that reason be dissolved: but

every director shall continue to hold his office and discharge his duties until his successor has been elected.

§ 24. Mode of calling special election of directors.— If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in a failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

§ 25. Mode of conducting special elections of directors.— Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or can not be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

§ 26. Qualification of voters and canvass of votes at special elections.— In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corpora-

tion, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

[See Form, No. 2.]

§ 27. Powers of supreme court respecting elections.— The supreme court shall, upon the application of any person or corporation aggrieved by or complaining of any election of any corporation or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

§ 28. Stay of proceedings in actions collusively brought. — If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense, and such action is in the interest or for the benefit of any director, and the corporation has by his connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts, in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside or vacate the same, or grant such other relief as may seem proper, and which

will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

§ 29. **Quorum of directors and powers of majority.**—The affairs of every corporation shall be managed by its board of directors at least one of whom shall be a resident of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

Amended by chap. 214 of 1901. In effect March 28, 1901.

[Section 11 of the general corporation law, provides that by-laws adopted at a meeting of the members of the corporation shall control the action of its directors.]

§ 30. **Directors as trustees in case of dissolution.**— Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

§ 31. **Forfeiture for non-user.**—If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

[This section does not apply to membership or religious corporations.]

§ 32. **Extension of corporate existence.**—Any domestic corporation at any time before the expiration thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, or if not a stock corporation, by the consent of two-thirds of its members, which consent shall be given either in writing or by vote at a special meeting of the stockholders called for that purpose, upon the same notice as that required for the annual meetings of the corporation; and a certificate under the seal of the corporation that such consent was given by the stockholders in writing, or that it was given by vote at a meeting as aforesaid, shall be subscribed and acknowledged by the president or a vice president, and by the secretary or an assistant secretary of the corporation, and shall be filed in the office of the secretary of state, and shall by him be duly recorded and indexed in a book specially provided therefor, and a certified copy of such certificate, with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate, shall be filed and similarly recorded and indexed in the office of the clerk of the county wherein the corporation has its principal place of business, and shall be noted in the margin of the record of the original certificates of such corporation, if any, in such offices, and thereafter the term of the existence of such corporation shall be extended as designated in such certificate If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized, pursuant to any law of this state, and that it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and recording of a certificate reviving the existence of such corporation upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was originally incorporated. Upon filing and recording such certificate in the same manner as certificates of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival. If a corporation formed under or subject to the banking law, such cer-

tificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension. If all the stock of a corporation other than a corporation formed under or subject to the banking law, or an insurance corporation, or a turnpike, plank-road or bridge corporation shall be lawfully owned by another stock corporation entitled by law to take a surrender and merger thereof, the corporate existence of such corporation whose stock is so owned may be extended at any time for the term of the corporate existence of the possessor corporation, by filing in the office or offices in which the original certificate or certificates of incorporation of the first-mentioned corporation were filed a certificate of such extension executed by its president and secretary and by such corporation owning all the shares of its capital stock. Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation, for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such law.

Amended by ch. 355 of 1901. In effect April 16, 1901.

§ 33. **Conflicting corporate laws.**—If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provisions in this chapter or in the stock corporation law relating to the same subject-matter, and both provisions shall, in such case, be applicable.

[Where the provisions of the membership corporations law or the religious corporations law and the provisions of the general corporation law are consistent both are applicable, but, if inconsistent, the provisions of the membership and religious corporations law shall prevail. See Gelbermann v. N. Y. & N. R. R. Co., 77 Hun, 332.]

§ 34. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

§ 35. **Saving clause.**—The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing unless it shall be otherwise specially provided by law.

§ 36. **Construction.**—The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special

act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

[See, also, statutory construction law, § 36.]

§ 37. **Law revived.**—Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Baptist Historical Society of the city of New York," which was inadvertently repealed by the transportation corporations law, is revived and re-enacted, and shall be of the same force and effect as if it had not been repealed.

[This act was repealed by mistake in 1890 and revived in 1892.]

§ 38. **When notice or lapse of time unnecessary.**—Whenever under the provisions of any of the corporate laws a corporation is authorized to take any action after notice to its members or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if such action be authorized or approved, and such requirements be waived in writing by every member of such corporation, or by his attorney thereunto authorized. (Added by L. 1895, ch. 672.)

[This section is new. It authorizes the stockholders, by unanimous consent, to waive a notice required to be given to them by law, or to waive the lapse of time required by law before certain action is taken.]

§ 39. **As to acts of directors.**—Whenever, under the provisions of any of the corporate laws, a corporation is authorized to take any action by the agreement or action of its directors, managers or trustees, such agreement or action may be taken by such directors, regularly convened as a board, and acting by a majority of a quorum, except when otherwise expressly required by law or the by-laws of the corporation and any such agreement shall be executed in behalf of the corporation by such officers as shall be designated by the board of directors, managers or trustees. At any meeting at which every member of the board of directors shall be present, though held without notice, any business may be transacted which might have been transacted if the meeting had been duly called. Except when otherwise required by law or the by-laws of the corporation, special meetings of the members of the corporation may be called in the same manner as the annual meeting thereof.

Amended by ch. 355 of 1901. In effect April 16, 1901.

[This section is new and authorizes the directors regularly convened, as a board and acting by a majority of a quorum to act for the board.]

§ 40. **Alteration and repeal of charter.**— The charter of every corporation shall be subject to alteration, suspension and re-repeal, in the discretion of the legislature. (Added by L. 1895, ch. 672.).

[New. This provision although in the Revised Statutes, was not inserted in the Constitution until 1846. The provision of the Revised Statutes was repealed in 1890. It has been deemed advisable to re-enact it.]

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 18.....All

Laws of	Chap'er.	Sections.
1811.....	67.....	All.
1815.....	47.....	All.
1815.....	202.....	All.
1816.....	58.....	All.
1817.....	223.....	All.
1818.....	67.....	All.
1819.....	102.....	All.
1821.....	14.....	All.
1822.....	213.....	All.
1836.....	284.....	All.
1836.....	316.....	All.
1838.....	160.....	All.
1838.....	161.....	All.
1838.....	262.....	All.
1839.....	218.....	All.
1842.....	165.....	All.
1846.....	155.....	All.
1846.....	215.....	17, 18.
1847.....	100.....	3, 4.
1847.....	210.....	All.
1847.....	222.....	All.
1847.....	270.....	All.
1847.....	272.....	All.
1847.....	287.....	All.
1847.....	398.....	All.
1847.....	404.....	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1847	405	All.
1848	37	All.
1848	40	All.
1848	45	All.
1848	259	All.
1848	265	All.
1848	360	All.
1849	250	All.
1849	362	All.
1850	71	All.
1850	146	All.
1851	14	All.
1851	19	All.
1851	98	All.
1851	107	All.
1851	487	All.
1851	497	All.
1852	228	All.
1852	372	All.
1853	53	All.
1853	117	All.
1853	124	All.
1853	135	All.
1853	245	All.
1853	333	All.
1853	471	1, 2, 4.
1853	481	All.
1853	502	All.
1853	626	All.
1854	3	All.
1854	87	All.
1854	140	All.
1854	201	All.
1854	232	All.
1854	269	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1854	282	All.
1854	312	All.
1855	301	All.
1855	302	All.
1855	390	All.
1855	478	All.
1855	485	All.
1855	495	All.
1855	546	All.
1855	559	All.
1856	65	All.
1857	29	All.
1857	83	All.
1857	185	All.
1857	202	All.
1857	262	All.
1857	444	All.
1857	546	All.
1857	558	All.
1857	643	All.
1857	776	All.
1858	10	All.
1858	125	All.
1859	209	All.
1859	311	All.
1859	455	All.
1860	116	All.
1860	269	All.
1860	523	All.
1861	149	All.
1861	170	All.
1861	215	All.
1861	238	All.
1862	205	All.
1862	248	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter	Sections.
1862	425	All.
1862	438	All.
1862	449	All.
1862	472	All.
1863	63	All.
1863	134	All.
1863	346	All.
1864	85	All.
1864	337	All.
1864	517	All.
1864	582	All.
1865	234	All.
1865	246	All.
1865	307	All.
1865	691	All.
1865	780	All.
1866	73	All.
1866	259	All.
1866	322	All.
1866	371	All.
1866	697	All.
1866	780	All.
1866	799	All.
1866	838	All.
1867	12	All.
1867	49	All.
1867	248	All.
1867	254	All.
1867	419	All.
1867	480	All.
1867	509	All.
1867	775	All.
1867	906	All.
1867	937	All.
1867	960	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1867	974	All.
1868	253	All.
1868	290	All.
1868	573	All.
1868	781	All.
1869	234	All.
1869	237	All.
1869	605	All.
1869	706	All.
1869	844	All.
1869	917	All.
1870	124	All.
1870	135	All.
1870	322	All.
1870	443	All.
1870	568	All.
1870	773	All.
1871	95	All.
1871	481	All.
1871	535	All.
1871	560	All.
1871	657	All.
1871	669	All.
1871	697	All.
1871	883	All.
1872	81	All.
1872	128	All.
1872	146	All.
1872	248	All.
1872	283	All.
1872	350	All.
1872	374	All.
1872	426	All.
1872	609	All.
1872	611	All.
1872	779	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter	Sections.
1872	780	All.
1872	820	All except 20.
1872	829	All.
1872	843	All.
1873	151	All.
1873	352	All.
1873	432	All.
1873	440	All.
1873	469	All.
1872	616	All.
1873	710	All.
1873	737	All.
1873	814	All.
1874	76	All.
1874	143	All.
1874	149	All.
1874	240	All.
1874	288	All.
1874	430	All
1875	4	All.
1875	58	All.
1875	88	All.
1875	108	All.
1875	113	All.
1875	119	All.
1875	120	All.
1875	159	All.
1875	193	All.
1875	256	All.
1875	319	All.
1875	365	All.
1875	445	All.
1875	510	All.
1875	586	All.
1875	598	All.
1875	606	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1875	611	All.
1876	77	All.
1876	135	All.
1876	198	All.
1876	280	All.
1876	358	All.
1876	373	All.
1876	415	All.
1876	435	All.
1876	446	All.
1877	103	All.
1877	158	All.
1877	164	All.
1877	171	All.
1877	224	All.
1877	266	All.
1877	374	All.
1878	61	All.
1878	121	All.
1878	163	All.
1878	203	All.
1878	210	All.
1878	261	All.
1878	264	All.
1878	316	All.
1878	334	All.
1878	394	All.
1879	214	All.
1879	253	All.
1879	290	All.
1879	293	All.
1879	350	All.
1879	377	All.
1879	393	All.
1879	395	All.
1879	413	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1879	415	All.
1879	441	All.
1879	503	All.
1879	505	All.
1879	512	All.
1879	541	All.
1880	5	All.
1880	85	All.
1880	90	All.
1880	94	All.
1880	113	All.
1880	133	All.
1880	155	All.
1880	182	All.
1880	187	All.
1880	223	All.
1880	225	All.
1880	241	All.
1880	254	All.
1880	263	All.
1880	267	All.
1880	349	All.
1880	415	All.
1880	417	All.
1880	484	All.
1880	510	All.
1880	575	All.
1880	582	All.
1880	583	All.
1880	585	All.
1881	22	All.
1881	58	All.
1881	77	All.
1881	117	All.
1881	148	All.
1881	213	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1881	282	All.
1881	295	All.
1881	296	All.
1881	311	All.
1881	313	All.
1881	321	All.
1881	337	All.
1881	338	All.
1881	351	All.
1881	399	All.
1881	422	All.
1881	464	All.
1881	468	All.
1881	470	All.
1881	472	All.
1881	485	All.
1881	551	All.
1881	589	All.
1881	649	All.
1881	650	All.
1881	674	All.
1881	685	All.
1882	73	All.
1882	82	All.
1882	140	All.
1882	273	All.
1882	289	All.
1882	290	All.
1882	306	All.
1882	309	All.
1882	349	All.
1882	353	All.
1882	393	All.
1882	405	All.
1883	46	All.
1883	71	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1883	102	All.
1883	216	All.
1883	232	All.
1883	237	All.
1883	238	All.
1883	240	All.
1883	287	All.
1883	323	All.
1883	361	All.
1883	381	All.
1883	382	All.
1883	384	All.
1883	386	All.
1883	387	All.
1883	388	All.
1883	409	All.
1883	482	All.
1883	483	All.
1883	497	All.
1884	140	All.
1884	193	All.
1884	208	All.
1884	223	All.
1884	252	All.
1884	267	All.
1884	367	All.
1884	386	All.
1884	397	All.
1884	421	All.
1884	422	All.
1884	439	All.
1884	441	All.
1884	444	All.
1885	84	All.
1885	127	All.
1885	141	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1885	153	All.
1885	171	All.
1885	305	All.
1885	369	All.
1885	422	All.
1885	423	All.
1885	489	All.
1885	498	All.
1885	535	All.
1885	540	All.
1885	549	All.
1886	65	All.
1886	182	All.
1886	271	All.
1886	321	All.
1886	322	All.
1886	403	All.
1886	415	All.
1886	509	All.
1886	551	All.
1886	579	All.
1886	586	All.
1886	592	All.
1886	601	All.
1886	605	All.
1886	634	All.
1886	642	All.
1887	450	All.
1887	486	All.
1887	536	All.
1887	570	All.
1887	616	All.
1887	622	All.
1887	724	All.
1888	189	All.
1888	306	All.
1888	313	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1888	359	All.
1888	394	All.
1888	447	All.
1888	462	All.
1888	513	All.
1888	514	All.
1888	549	All.
1888	560	All.
1889	57	All.
1889	76	All.
1889	78	All.
1889	236	All.
1889	242	All.
1889	281	All.
1889	332	All.
1889	369	All.
1889	426	All.
1889	519	All.
1889	524	All.
1889	531	All.
1889	532	All.
1889	564	All.
1890	23	All.
1890	98	All.
1890	119	All.
1890	193	All.
1890	292	All.
1890	416	All.
1890	421	All.
1890	483	All.
1890	497	All.
1890	505	All.
1890	508	All.
1890	543	All.
1891	57	All.
1891	287	All.
1892	2	All.

Table Showing Sources of General Corporation Law.

Sections of General Corp. Law.	R. S., 8th ed. Supp.	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
1.....	4065	1890	563	1	....	....
2.....	4065	....	....	New	....	....
3.....	4065	....	....	R. S., pt. i, ch. 11, tit. 1, § 1.....	877	3075
				R. S., pt. i, ch. 12, tit. 1, §§ 1-4.....	1018	730
		1871	888	10	1620	1644
		1882	409	214, 216	1558	211
		1890	563	2	....	....
4.....	4066	1890	567	2	....	....
5.....	4066	1847	210	1	1477	3215
		1848	37	1	2075	1244
		1848	40	1, as am. by L. 1890, ch. 508	1953	1879
		1848	259	1	1509	326
		1848	265	2	2060	3031
		1850	140	1	1738	2401
		1853	117	1	1991	347
		1853	135	1	1847	1159
		1853	471	1	2063	3034
		1854	232	1	1854	2028
		1854	269	1-3	2067	1386
		1857	546	1	2084	1279
		1857	776	3	2073	55
		1861	149	1, sub. 3	2005	2147
		1866	838	2	1967	1884
		1867	974	1	1876	2735
		1872	248	1	2007	914
		1874	143	1	2001	1394
		1874	288	1	2074	56
		1875	611	4	1979	368
		1881	22	1	1724	677
		1881	351	2	1998	358
		1890	563	3	....	....
6.....	4067	1848	319	5	1923	261
		1853	466	4	1641	1583
		1854	232	1	1854	2028
		1875	611	4	1979	368
7.....	4067	1877	211	1	1694	1566
		1883	175	1, 2	1703	1620
		1890	563	4	....	....

Table Showing Sources of Gen. Corp. Law — (Continued).

Sections of General Corp Law.	R. S., 8th ed. Supp	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
7.....	4067	1870	135	1, 2	1732	674
		1881	468	11	1770	2464
		1890	563	5	....	....
8.....	4068	1888	306	.....	1725	....
		1890	563	6	....	....
9.....	4068	1811	67	8	1950	1877
		1847	210	3	1477	3216
		1848	37	9	2077	1246
		1848	40	9	1957	1893
		1848	259	4	1510	327
		1848	265	3	2061	3031
		1850	140	3	1739	2402
		1853	117	9	1992	349
		1853	135	11	1848	1161
		1854	232	9	1856	2030
		1857	546	9	2085	1230
		1861	149	4	2005	2148
		1866	697	5	1763	2401
		1867	974	3	1877	2735
		1869	917	2, sub. 2.....	1784	2440
		1872	283	3	1503	3237
		1872	820	16	2012	357
		1873	469	5	1786	676
		1874	143	9	2003	1396
		1876	135	4	1504	3238
		1878	203	3	1863	217
		1882	409	31	1522	177
		1885	505	4	2090	1684
		1885	538	7	1713	2509
		1888	462	2	1879	973
		1890	563	7. See Civ. Code, § 933.	....	....
10.....	4068	....	....	R. S., pt. i, ch. 18, tit. 3, § 3	1722	672
		1890	563	9	....	....
11.....	4068	....	....	R. S., pt. i, ch. 18, tit. 1, § 1	1463	3207
		....	....	R. S., pt. i, ch. 18, tit. 3, §§ 1, 2.....	1723	672
		....	....	R. S., pt. i, ch. 18, tit. 4, § 6	1730	679
		1811	67	2, 6	1948	1875

Table Showing Sources of Gen. Corp. Law — (Continued).

Sections of General Corp. Law.	R. S., 8th ed. Supp.	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
11.....	4068	1848	37	2, 7, 23	2075	1245
		1848	40	2, 7, 26.....	1955	1890
		1848	259	1, subs, 3, 5.....	1509	326
		1848	265	4	2061	3032
		1849	308	12	1631	1574
		1850	140	1, 2, 5.....	1739	2401
		1853	117	7, 26	1992	348
		1853	135	1	1847	1159
		1853	463	10	1667	1608
		1853	466	11	1643	1585
		1854	232	5, 7, 26.....	1855	2029
		1857	546	2, 7	2084	1279
		1857	776	4, 6, 8.....	2073	55
		1859	168	1, 13, 14	2070	1390
		1862	438	2, 3	2072	1390
		1867	960	4	1969	....
		1867	971	6, 9	2046	661
		1867	974	1	1876	2735
		1871	535	.....	1971	1884
		1872	248	2, 6, 11.....	2007	914
		1872	820	18	2012	357
		1873	397	8	2056	1177
		1873	616	4	1997	353
		1874	143	2, 7, 15, 17.....	2001	1394
		1874	288	2, 3	2074	56
		1875	267	10	2027	2728
		1875	343	8	2042	1841
		1875	611	2	1979	368
		1875	613	2	1604	239
		1877	228	6	2058	1047
		1881	351	4, 10	1999	358
		1882	273	3	2012	1889
		1882	409	207	1557	210
		1883	71	1	2001	360
		1883	175	4	1704	1620
		1884	367	4	1977	1900
		1886	236	8	2029	2255
		1886	611	9, 13	1721	789
		1887	546	18, 21	1599	3202
		1888	293	7	2015	2151

Table Showing Sources of Gen. Corp. Law — (Continued).

Sections of General Corp. Law.	R. S., 8th ed. Supp.	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
11.....	4068	1888	391	5	2087	2110
		1890	563	8	....	....
12.....	4069	1889	191	As am. by L. 1890, ch. 553	....	....
13.....	4069	1882	290	1	1725	677
		1890	563	10	....	....
14.....	4069	1872	146	.....	1733	682
		1890	563	11	....	....
15, 16..	4069	....	....	New	....	....
17.....	4071	1887	450	1	1737	684
		1890	563	12	....	....
18.....	4071	1877	158	1	1736	2541
		1890	563	13	....	....
19.....	4071	....	....	R. S., pt. i, ch. 18, tit. 3, § 4	1723	673
		1811	67	7	1950	1876
20.....	4071	....	....	R. S., pt. i, ch. 18, tit. 1, § 10	1465	3208
		....	....	R. S., pt. i, ch. 18, tit. 4, § 6	1730	680
		1811	67	3	1949	1876
		1847	210	38	1485	3223
		1848	37	3	2076	1245
		1848	40	3, 17	1956	1892
		1851	122	13	1589	345
		1853	117	3, 17	1992	348
		1853	135	4, 8	1848	1160
		1854	232	3, 17	1854	2029
		1857	546	17	2086	1281
		1861	149	5	2005	2148
		1867	974	5	1877	2736
		1872	248	.....	2008	915
		1872	820	11	2011	356
		1874	143	11	2003	1396
		1875	606	10	1824	2469
		1880	510	2	1793	2404
		1881	468	10	1769	2464
		1882	409	170, 199-201	1551	204
		1885	538	20	1718	2513
		1887	546	16, 17	1599	3202

Table Showing Sources of Gen. Corp. Law — (Continued).

Sections of General Corp. Law	R. S., 8th ed. Supp.	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
20.....	4071	1887	556	4	1592	662
		1890	564	54	....	....
21.....	4072	1811	67	3	1949	1876
		1847	210	38	1485	3223
		1848	37	3	2076	1245
		1848	40	3	1956	1892
		1851	188	.....	1653	1582
		1881	468	10	1769	2464
		1882	409	170	1551	204
		1885	538	20	1717	2513
		1890	564	54	....	....
22.....	4072	1880	510	2	1793	2404
		1882	409	202-4	1556	209
		1890	564	54	....	....
23.....	4073	....	....	R. S., pt. i, ch. 18, tit. 1, § 8	1464	3207
		1796	43	10	2036	1836
		1811	67	4	1948	1876
		1848	37	4	2076	1246
		1848	40	4	1956	1892
		1848	319	4	1923	261
		1851	122	14	1589	345
		1853	117	4	1992	348
		1853	135	5	1848	1160
		1854	232	4	1855	2029
		1857	546	4	2084	1280
		1861	149	5	2005	2148
		1872	820	12	2011	356
		1873	397	4	2056	1176
		1874	143	4	2002	1395
		1875	267	5	2026	2727
		1875	611	27	1984	373
23.....	4073	1875	613	4	1605	240
		1881	351	8	2000	359
		1882	409	206	1557	210
		1885	538	21	1718	2513
		1886	236	6	2029	2254
		1887	317	6	2032	154
		1887	501	3	1934	3367
		1887	556	4	1592	662

Table Showing Sources of Gen. Corp. Law — (Continued).

Sections of General Corp Law.	R. S., 8th ed. Supp.	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
23.....	4073	1888	293	4	2014	2151
		1890	563	18	....	....
24.....	4073	....	....	R. S., pt. i, ch. 18, tit. 4, § 8	1730	680
		1885	489	3	1726	683
		1890	564	53, 54	....	....
25.....	4074	1885	489	3, 4	1726	683
		1890	564	53	....	....
26.....	4074	1885	489	3	1726	683
		1890	564	53	....	....
27.....	4074	....	....	R. S., pt. i, ch. 18, tit. 4, § 5	1729	679
		1882	409	210-3	1557	210
		1890	563	15	....	....
28.....	4075	1885	489	2	1726	682
		1890	563	16	....	....
29.....	4075	....	....	R. S., pt. i, ch. 18, tit. 1, § 11	1465	3208
				R. S., pt. i, ch. 18, tit. 3, § 6	1724	673
		1811	67	3	1949	1876
		1848	37	3	2076	1245
		1848	40	3	1956	1892
		1852	228	3	1850	2025
		1853	117	3	1991	348
		1853	135	3	1847	1160
		1853	395	6	2038	1837
		1861	149	5	2005	2148
		1867	971	5	2045	660
		1867	974	5	1877	2736
		1872	248	4	2008	915
29.....	4075	1875	611	10, as am. by L. 1890, ch. 23	1980	369
		1881	468	4	1768	2462
		1886	586	1, 2	1990	379
30.....	4075	....	....	R. S., pt. i, ch. 18, tit. 3, §§ 9-10.....	1724	673
		1890	563	19, 20	....	....
31.....	4076	....	....	R. S., pt. i, ch. 18, tit. 3, § 7.....	1724	673

Table Showing Sources of Gen. Corp. Law — (Continued).

Sections of General Corp. Law.	R. S., 8th ed. Supp.	Corresponding Sections of Previous Laws.			R. S., 8th ed., pp.	Birds. Stat., pp.
		Year.	Chap.	Sections.		
31.....	4076	1861	149	8	2006	2149
		1890	563	21	....	....
32.....	4076	1848	319	13	1924	263
		1857	29	2	1962	1883
		1866	697	5	1763	2401
		1867	937	1	2089	673
		1872	283	1, 2	1502	3237
		1875	58	1	1862	2035
		1875	611	29	1985	374
		1876	135	1	1503	3237
		1882	409	329, added L. 1889, ch. 177	1583	234
		1885	538	25	1718	2514
		1890	563	22	....	....
33.....	4077	....	....	New	....	....
34.....	4077	1890	563	23	....	....
35.....	4078	1890	563	24	....	....
36.....	4078	1890	563	25	....	....
37.....	4078	....	....	New	....	....
38.....	.....	....	....	New, added L. 1895, ch. 672	.....	.....
39.....	.....	.....	.....	New, added L. 1895, ch. 672	.....	.....
40.....	.....	.....	....	New, added L. 1895, ch. 672	.....	.....

Taxation and Exemption of Non-Business Corporations.

R. S. Pt. 1, ch. 13, tit. 1.

§ 4. The following property shall be exempt from taxation:

1. All property, real or personal, exempted from taxation by the constitution of this state or under the constitution of the United States:

2. All lands belonging to this state, or the United States.

3. Every building erected for the use of a college, incorporated academy, or other seminary of learning and in actual use for either of such purposes, every building for public worship, every schoolhouse courthouse and jail used for either of such purposes; and the several lots whereon such buildings are situated and the furniture belonging to each of them. (Thus amended by L. 1883, ch. 397.)

4. Every poorhouse, almshouse, house of industry and every house belonging to a company, incorporated for the reformation of offenders or to improve the moral condition of seamen, and the real and personal property used for such purposes belonged to or connected with the same. Provided, however, that no private company or incorporated institution or almshouse shall be entitled to such exemption, whose gross annual income from its real and personal property shall exceed two hundred thousand dollars. (Thus amended by L. 1892, ch. 713.).

5. The real and personal property of every public library.

6. All stocks owned by the state, or by literary or charitable institutions.

7. The personal estate of every incorporated company not made liable to taxation on its capital, in the fourth title of this chapter.

8. The personal property of every minister of the gospel, or priest of any denomination, or every such minister or priest who

is permanently disabled by impaired health from peforming the active duties of the ministry, and every such minister or priest, who has reached the age of seventy-five years; and the real estate of such minister or priest or such disabled or aged minister or priest, when occupied by him, provided such real and personal estate do not exceed the value of one thousand five hundred dollars; and, (This subd. thus amended by L. 1884, ch. 537.)

9. All property exempted by law from execution.

10. Real property owned by any incorporated association of present or former volunteer firemen, actually and exclusively used and occupied by such corporation, and not exceeding in assessed value the sum of fifteen thousand dollars. (Added by L. 1891, ch. 163.)

11. A dwelling-house owned by any religious corporation and the land upon which the same stands, while and during only the time actually used by the officiating clergyman of such religious corporation shall be exempt to an amount not exceeding two thousand dollars, but not more than one dwelling actually used by any one religious corporation shall be so exempt. (Added by L. 1892, ch. 565.)

[Subdivision 2 of the foregoing section was amended so as to read as specified by L. 1878, ch. 191; but that act was repealed by L. 1879, ch. 140, thus, probably, repealing the subdivision.]

§ 5. If the real and personal estate, or either of them, of any minister or priest, exceed the value of one thousand five hundred dollars, that sum shall be deducted from the valuation of his property, and the residue shall be liable to taxation.

§ 6. Lands sold by the state, though not granted, or conveyed, shall be assessed in the same manner as if actually conveyed.

§ 7. The owner or holder of stock in any incorporated company liable to taxation on its capital shall not be taxed as an individual for such stock.

L. 1856, Chap. 183—An act to exempt lands held by agricultural societies from taxation.

Section 1. Exemption.—All lands now held, or which may hereafter be held, by any agricultural society in this state, and permanently used for show grounds by any such society, shall be exempt from taxation during the time so used.

L. 1852, Chap. 282—An act defining the exemptions from taxation on public buildings in the city of New York.

Section 1. Buildings for public worship, schoolhouses, etc., exempt.—The exemption from taxation of every building for public worship, and every schoolhouse or other seminary of learning, under the provisions of subdivision three of section four, title one, chapter thirteen of part first of the revised statutes, of amendments thereof, shall not apply to any such building or premises in the city of New York, unless the same shall be exclusively used for such purposes, and exclusively the property of a religious society, or of the New York public school society.

[4 Hun, 446; 20 Hun, 298; 58 Hun, 593; 99 N. Y. 488; 93 N. Y. 196; 104 N. Y. 581; 44 Hun, 102.

L. 1889, Chap. 462—An act to amend chapter four hundred and sixty six of the laws of one thousand eight hundred and seventy-five, entitled "An act to exempt property, real and personal, of the Society of the New York Hospital from taxation, and to repeal section four of chapter two hundred and fifty-seven of the laws of one thousand eight hundred and twenty-two.

Section 1. Section one of chapter four hundred and sixty-six of the laws of eighteen hundred and seventy-five is hereby amended so as to read as follows:

§ 1. The portion of the property, real and personal, of the Society of the New York Hospital, a charitable corporation, now owned or hereafter acquired by it and wherever situated, from which no income is derived, shall be exempt from taxation so long as the same shall be used exclusively for the purposes for which said society was chartered.

§ 2. This act shall take effect immediately.

Laws 1889, ch. 191.

Section 1. Any religious, educational, bible, missionary, tract, literary, scientific, benevolent or charitable corporation organized for the enforcement of laws relating to children or animals, or for hospital, infirmary, or other than business purposes, may take and hold, in its own right, or in trust for any purpose comprised in the objects of its incorporation, property not exceeding in value three million dollars, or the yearly income

derived from which shall not exceed two hundred and fifty thousand dollars, notwithstanding the provisions of any special or general act heretofore passed or certificate of incorporation affecting such corporations. In computing the value of such property no increase in value arising otherwise than from improvements made thereon, shall be taken into account. The personal estate of such corporations shall be exempt from taxation, and the provisions of chapter four hundred and eighty-three of the laws of eighteen hundred and eighty-five, entitled "An act to tax gifts, legacies and collateral inheritances in certain cases," and the acts amendatory thereof, shall not apply thereto, nor to any gifts to any such corporation by grant, bequest or otherwise; provided, however, that this provision shall not apply to any moneyed or stock corporation deriving an income or profit from the capital or otherwise, or to any corporation which has the right to make dividends or to distribute profits or assets among its members. (Thus amended by L. 1890, chaps. 497 and 553.)

§ 2. This act shall not affect the right of any such corporation to take and hold property exceeding in value the amount specified in section one of this act, provided such right is conferred upon such corporation by special statute; nor affect any statute by which its real estate is exempt from taxation. (Thus amended by L. 1890, chaps. 497 and 553.)

§ 3. This act shall take effect immediately.

[Note. See Gen. Corp. Law, § 12, superseding all of the provisions of this chapter except such as relate to taxation.]

Laws 1893, ch. 498.

Section 1. Exemption of property of certain non-business corporations.— The real property of a corporation or association organized exclusively for the moral and mental improvement of men and women or for religious, charitable, missionary, hospital, educational, patriotic, historical or cemetery purposes, or for two or more of such purposes, and used exclusively for carrying out thereupon one or more of such purposes shall be exempt from taxation. But no such corporation or association shall be entitled to any such exemption, if any officer, member or employe thereof shall

receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof, for any of such avowed purposes, be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employes, or if it be not in good faith organized or conducted exclusively for one or more such purposes. The real property of any such corporation or association entitled to such exemption held by it exclusively for one or more of such purposes, and from which no rents, profits or income are derived, shall be so exempt, though not in actual use therefor, by reason of the absence of suitable buildings or improvements thereon, if the construction of such buildings or improvements is in progress, or is in good faith contemplated by such corporation or association. The real property of any such corporation not so used exclusively for carrying out thereupon one or more of such purposes, but leased or otherwise used for other purposes, shall not be so exempt; but if a portion only of any lot or building of any such corporation or association is used exclusively for carrying out thereupon one or more of such purposes of any such corporation or association, then such lot or building shall be so exempt only to the extent of the value of the portion so used, and the remaining portion of such lot or building to the extent of the value of such remaining portion shall be subject to taxation. Property held by an officer of a religious denomination, shall be entitled to the same exemptions, subject to the same conditions and exceptions as property held by a religious corporation.

§ 2. This act shall take effect immediately.

Acts in Relation to Non-Business Corporations.

Laws 1886, ch. 546.

Section 1. **Certain missionary and religious corporations, etc., may appoint special police; powers of police.**— Any corporation duly incorporated under the laws of the state of New York for benevolent or charitable or literary or scientific or missionary or mission or Sunday school purposes, or for the purpose of mutual improvement in religious knowledge or for the furtherance of religious opinion, or for the purpose of promoting morality, or for any two or more of such objects, that occupies inclosed grounds and holds meetings thereon from day to day at stated periods for the advancement of the objects of its incorporation, and procures the people to assemble in its buildings and on said grounds for such serial meetings, shall have power through its board of trustees or other board of managers of the affairs of such corporation for the purpose of protecting and preserving such buildings, grounds and other property, and preventing injuries thereto, and preserving order and preventing disturbances, and preserving the peace in such buildings and upon such grounds by resolution of its board of trustees or other board of managers, or otherwise to appoint from time to time one or more special policemen, and the same to remove at pleasure, who when appointed shall be police officers, with the same powers within and about such grounds as are vested in constables of the town where such grounds are located, whose duty, when appointed, it shall be to preserve order and to prevent disturbances and breaches of the peace in and about the buildings and on and about the grounds used for such meetings, or on grounds or in buildings pertaining thereto, and to protect and preserve the same from injury, and to arrest any and all persons making any loud or unusual

noise, causing any disturbance or committing any breach of the peace, or committing any misdemeanor, or wilfully violating the established rules and regulations of said corporation, or committing any wilful trespass upon such grounds or in or upon such buildings or any part thereof, and to convey such person or persons so arrested, with a statement of the cause of such arrest, before a magistrate having jurisdiction of the offense, to be dealt with according to law.

§ 2. **Punishment of trespass upon grounds, etc.; disturbance; jurisdiction of local magistrates.**—Any wilful trespass in or upon any of the buildings or grounds provided or used for the purpose of said meetings, and any wilful injury to any of said buildings or to said grounds, or to any trees, fences, fixtures or other property thereon and pertaining thereto, and any wilful disturbance of the peace and quietness of said grounds by intentional breach of the rules and regulations thereof shall be misdemeanors punishable by fine and imprisonment, or either, and concurrently with the courts of record of this state, justices of the peace, police justices and courts of special sessions in the town where such grounds are situated shall have the same jurisdiction of said officers as they have of other cases of misdemeanors committed within their jurisdiction, and shall have jurisdiction over the persons of those brought before them in the form and manner prescribed in the first section of this act, and said policemen are hereby empowered to carry and convey the persons so arrested before such justices of the peace, police justices and courts of special sessions, and to hold them until discharged according to law.

§ 3. **Oaths of office; how filed.**—Every policeman so appointed shall within fifteen days after such appointment and before entering upon the duties of his office, take and subscribe the oath of office prescribed in the twelfth article of the constitution of the state of New York, which said oath shall be filed in the office of the county clerk of the county where such grounds are situated.

§ 4. **Policeman's shield to be worn.**—Such policemen shall, when on duty, severally wear a metallic shield with the words

"policemen of these grounds," and the name of the corporation which appointed them inscribed thereon, and said shield shall always be worn in plain view.

§ 5. Police, how paid.— The compensation of such policemen shall be paid by the corporations by which they are respectively appointed in the form and manner agreed upon between them.

Laws 1895, ch. 493.

AN ACT to authorize any corporation duly incorporated under the laws of the State of New York for the erection of buildings and the acts amendatory thereof, and which is also authorized to conduct camp or grove meetings, Sunday-school parliaments, temperance, missionary, educational, scientific, musical and other meetings and assemblages, to appoint policemen.

BECAME a law May 2, 1895, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Any corporation duly incorporated under the laws of the State of New York for the erection of buildings and acts amendatory thereof, and that is also duly authorized by law to procure the people to assemble in its buildings or on its grounds for camp or grove meetings, Sunday-school parliaments, temperance, missionary, educational, scientific, musical and other meetings, shall have power through its board of trustees, or other board of managers, of the affairs of such corporation, for the purpose of protecting and preserving such buildings, grounds, and other property, and preventing injuries thereto, and preserving order, and preventing disturbances, and preserving the peace in such buildings, and upon such grounds, by resolution of its board of trustees, or other board of managers, or otherwise, to appoint from time to time one or more special policemen, and the same to remove at pleasure, who when appointed shall be police officers, with the same powers within and about, or adjacent to, such grounds, as are vested in constables of the town where such grounds are located, whose duty, when appointed,

it shall be to preserve order, and to prevent disturbances and breaches of the peace in and about the buildings and property and on and about the grounds of such corporation or approaches thereto or on grounds or in buildings pertaining thereto, and to protect and preserve the same from injury, and to arrest any, and all, persons making any loud or unusual noise, causing any disturbance or committing any breach of the peace, or committing any misdemeanor, or willfully violating the established rules and regulations of said corporation, or committing any willful trespass upon such grounds or property or approaches thereto or in or upon such buildings or any part thereof, and to convey such person or persons, so arrested, with a statement of the cause of such arrest, before a magistrate having jurisdiction of the offense, to be dealt with according to law.

§ 2. Any willful trespass in or upon any of the buildings or grounds provided or used for the purpose of said meetings or upon the approaches thereto, and any willful injury to any of the said buildings or to said grounds, or to any trees, fences, fixtures, or other property thereon and pertaining thereto, and any willful disturbance of the peace and quietness of said grounds by intentional breach of the rules and regulations thereof, shall be misdemeanors punishable by fine and imprisonment, or either, and concurrently with the courts of records of this state, justices of the peace, police justices and courts of special sessions in the town where such grounds are situated, shall have the same jurisdiction of said offenses as they have of other cases of misdemeanors committed within their jurisdiction, and shall have jurisdiction over the persons of those brought before them in the form and manner prescribed in the first section of this act, and said policemen are hereby empowered to carry and convey the persons so arrested before such justices of the peace, police justices and courts of special sessions, and to hold them until discharged according to law.

§ 3. Every policeman so appointed shall within fifteen days after such appointment and before entering upon the duties of his office, take and subscribe the oath of office prescribed in the

twelfth article of the constitution of the state of New York, which said oath shall be filed in the office of the county clerk of the county where such grounds are situated.

§ 4. Such policeman shall, when on duty, severally wear a metallic shield with the words "policeman," and the name of the corporation which appointed them inscribed thereon, and said shield shall always be worn in plain view.

§ 5. The compensation of such policeman shall be paid by the corporations by which they are respectively appointed in the form and manner agreed upon between them.

L. 1888, Chap. 293 — Parks and playgrounds for children.

Such corporations may also at their own expense appoint and employ police officers, who shall for the purpose of enforcing order and compliance with their orders, have all the powers and authority of the public police officers or patrolmen of the city, town or village wherein such parks or playgrounds may be situated within the limits of their parks or playgrounds and within one thousand feet of the limits thereof; subject, however, to all laws, ordinances or police regulations of the cities, towns or villages in which such parks and playgrounds may be situated and subject to the authority of the commissioners, superintendents, captains, sergeants or other superior police officers or authority of the particular district or locality in which the same may be.

L. 1850, Chap. 172 — An act to prohibit corporations from interposing the defense of usury in any action.

Section 1. Defense of usury not to be interposed.— No corporation shall hereafter interpose the defense of usury in any action.

17 N. Y. 52; 15 N. Y. 85; 17 Barb. 309.

§ 2. Definition of term corporation.—The term corporation, as used in this act, shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships.

23 N. Y. 276; 30 Barb. 627; 28 Barb. 188; 17 Barb. 311; 35 N. Y. 65; 33 N. Y. 665.

L. 1860, Chap. 360 — An act relating to wills.

Section 1. **Persons having relatives may not devise property by will, to benevolent or other societies beyond one-half.**— No person having a husband, wife, child or parent, shall, by his or her last will and testament, devise or bequeath to any benevolent, charitable, literary, scientific, religious or missionary society, association or corporation, in trust or otherwise, more than one-half part of his or her estate, after the payment of his or her debts (and such devise or bequest shall be valid to the extent of one-half, and no more).

43 N. Y. 440; 34 N. Y. 616; 3 Lans. 355; 2 Abb. Ct. App. Dec. 321; 4 Abb. N. S. 421; 27 Barb. 304; 1 Tucker, 235; 59 N. Y. 434; 4 Abb. N. C. 317; 3 Redf. 235; 7 Abb. N. C. 53; 19 N. Y. 327; 8 Abb. N. C. 118; 2 Abb. Ct. App. Dec. 316; 4 Dem. 473; 16 Abb. N. C. 263, note; 29 Hun, 225; 33 Hun, 411; 44 Hun, 425; 92 N. Y. 433, aff'g 27 Hun, 380; 95 N. Y. 166; 105 N. Y. 185; 5 Dem. 288.

§ 2. **Repeal.**— All laws and parts of laws inconsistent with this act are hereby repealed.

[The following provision is § 6 of the general act (L. 1848, ch. 319); § 6 of the club act (1865, ch. 368); § 7 of the club act (1875, ch. 267); § 5 of the act for the incorporation of libraries (1875, ch. 343); § 7 of the act relating to political clubs (L. 1886, ch. 236); and, with the exception of the last clause, § 7 of the act relating to bar associations (L. 1887, ch. 317).]

§ 6. **Real or personal property may be held, et cetera; proviso.**— Any corporation formed under this act shall be capable of taking, holding or receiving any property, real or personal, by virtue of any devise or bequest contained in any last will or testament of any person whatsoever, the clear annual income of which devise or bequest shall not exceed the sum of ten thousand dollars; provided, no person leaving a wife or child or parent, shall devise or bequeath to such institution or corporation more than one-fourth of his or her estate, after the payment of his or her debts, and such devise or bequest shall be valid to the extent of such one-fourth, and no such devise or bequest shall be valid in any will which

shall not have been made and executed at least two months before the death of the testator.

[This provision is not repealed in any case by the membership corporations law, it being the theory of the revisers to incorporate it, with L. 1860, ch. 360, in the wills law.

Section 6 of the Laws of 1848, ch. 319, must be construed in connection with L. 1860, ch. 360. The latter act extends the amount of the estate which may be granted, but does not operate to repeal the provisions of § 6 that the devise or bequest must be made within two months prior to testator's death. Hollis v. Hollis, 29 Hun, 225; Lefevre v. Lefevre, 59 N. Y. 434; Kerr v. Dougherty, 79 N. Y. 327.

Section 6 of L. 1848, ch. 319, does not apply to religious corporations, but such corporations are subject to L. 1860, ch. 360. Harris v. Am. Bap. Missionary Soc., 33 Hun, 412.

The two months restriction in § 6 of L. 1848, ch. 319, applies, although the testator leaves no wife, child or parent. Stephenson v. Short, 92 N. Y. 433.

To ascertain whether more than one-half of testator's estate is given under L. 1860, ch. 360, the estate must be treated as if converted into money at his death. If the portion given is not more than half thereof, the statute is not violated. Hollis v. Drew Theological Seminary, 95 N. Y. 166.

Section 6, applies only to corporations incorporated under L. 1848, ch. 319, and the acts amendatory thereof. Hollis v. Drew Theological Seminary, 95 N. Y. 166.

A misnomer or misdescription of a legatee or devisee will not invalidate the legacy or devise, if the object of the testator's bounty can be ascertained. Lefevre v. Lefevre, 59 N. Y. 434.

A bequest to a foreign corporation enabled, under the statutes of the State, in which it is incorporated, to take a bequest made within two months prior to testator's death is valid, although executed in this State. Hollis v. Drew Theological Seminary, 95 N. Y. 166; Matter of Estate of Prime, 136 N. Y. 347; Hope v. Brewer, 136 N. Y. 126.]

EXPLANATORY NOTE

TO

MEMBERSHIP CORPORATIONS LAW.

[The following memorandum was contained in the report of the commissioners of statutory revision in explanation of the membership corporations law.]

The membership corporations law is a revision of existing statutes authorizing the formation of corporations for purposes other than pecuniary profit, except medical, dental and veterinary corporations, which are to be provided for in the public health law; educational corporations, which are regulated by the university law, and religious corporations, for which provision is to be made in a separate chapter, to be known as the religious corporations law.

The laws repealed by this chapter provide for the organization and government of various classes of benevolent, charitable, social and recreative corporations on the same general plan, but with great diversity in detail.

The reduction of such diversity of detail to a uniform system has been the leading principle in the construction of this chapter. The general corporation law already provides certain uniform provisions for the incorporation and government of these and nearly all other corporations. Such provisions of laws to be repealed by this chapter as are peculiar to particular classes of these corporations, as it has been deemed necessary to retain, are re-enacted, respectively, in articles II-XII of this chapter, while article I of this chapter represents the uniform general provisions common to them all. To effect such degree of uniformity many slight changes in nearly every class of such corporations have been found necessary, none of which, however, substantially

disturb their methods of government or of accomplishing their corporate purposes. Thus, the uniform maximum number of signers of certificates of incorporation and of directors operates as an enlargement of the maximum number, in many cases, and the uniform minimum number requisite operates in many cases as a reduction; and the scope of by-laws expressly authorized has been, in many cases, enlarged. By this system of revision many repetitions of substantially the same provision, with slight variations have been avoided, and a single uniform statement substituted.

This chapter includes what was originally proposed to be included in both the membership corporations law and the mixed corporations law.

The certificates of stock issued by most of the corporations classed as mixed corporations are, in reality, mere certificates of membership, issued on payment of membership fees and dues, and not entitling holders thereof to any dividends. A separate chapter for mixed corporations is, therefore, not necessary, and section 3 of the general corporation law may be amended by omitting the references to mixed corporations.

Several provisions, now applicable to corporations created by general laws only, are extended to corporations chartered by special laws. This will obviate the necessity of frequent applications for special legislation to accomplish the same result.

The commissioners believe the following to be the only other changes in the substance of existing law proposed by this chapter, besides those above referred to:

1. By section 4, a membership corporation, whether created by general or special law, is authorized to extend its corporate purposes by filing a supplemental certificate. This is new as to corporations created by special law and as to most corporations created by general law.

2. Section 5, authorizing the incorporation of unincorporated associations, is new as to all classes of such associations except political clubs and associations for training nurses.

3. Section 6, authorizing membership corporations created by special law to reincorporate under the general law and to be governed by it only, is new.

4. Section 7, authorizing corporations of the same, or of a kindred nature, to consolidate, is new as to all membership corporations.

5. Section 8, relating to by-laws, is broader in its terms than any law repealed by this chapter, and is for the first time made applicable to corporations created by special law.

6. Section 10, as to filling vacancies in boards of directors, is for the first time extended to corporations created by special law.

7. The provision of nearly all the laws repealed by this chapter, requiring the filing of an annual inventory, has been omitted, and instead, by section 11, the directors are required to report at the annual meeting.

8. The liability of directors where it now exists is not substantially changed by section 11, but such liability is extended uniformly to the directors of membership corporations, as to many of which such a liability does not now exist.

9. The prohibitions contained in several laws on the officers or directors receiving compensation or being interested in corporate contracts, are omitted, and instead such compensation or interest is permissible, if authorized by the by-laws. (See section 12.)

10. By section 13 all membership corporations are required to obtain leave of the court to sell real property, after the concurrence of two-thirds of the directors. In many of the existing laws, a vote of the directors at a meeting at which two-thirds are present, with leave of the court, is sufficient; while in others, a vote of the members is also necessary. The requirement of leave of the court is new as to some membership corporations.

11. Section 13, providing that the court may confirm a sale, etc., made without leave of court, but not so as to affect subsequent purchasers and incumbrances, is new.

12. The provision of section 13, authorizing any membership corporation to convey, without leave of court, parts of its real property to members for cottages, etc., is new, except as to social clubs.

13. Section 14, authorizing the changing of number of directors, is new as to many membership corporations created under laws

repealed by this chapter. The extension of such provision to corporations created by special law is also new.

14. The provision of section 16, authorizing a judicial investigation of the affairs of a membership corporation on the application of an aggrieved member, is new.

15. By section 17, all membership corporations, except educational corporations subject to the regents, receiving state money, are required to report to comptroller. This is new, except as to corporations maintaining hospitals, orphan asylums and the like.

Cemetery corporations.

16. The provisions of section 45 authorizing a cemetery corporation to acquire land by condemnation, is new. The constitutional objection to such condemnation raised in in re Deansville Cemetery Association, 66 N. Y. 569, is obviated by the limiting clause at the beginning of the section.

"It seems to be settled law that lands may be condemned for the purpose of a public cemetery, where the public in general have a right to obtain interment, and that lands taken for the purpose of enlarging a public cemetery is devoting it to a public use." (Farneman v. Mt. Pleasant Cem. Ass'n, Ind. 35 N. E. Rep., 271, citing Ass'n v. Beecher, 53 Conn. 551; Balch v. Com'rs, 103 Mass. 106; Edgecumbe v. Burlington, 46 Vt. 218.)

17. The provision of section 47, authorizing a cemetery corporation to prescribe and collect penalties for a violation of its rules, is new.

18. Taxes levied on lot owners by a cemetery corporation, under section 52, are to be collected by treasurer of corporation, instead of by the school collector.

19. The power of cemetery corporations to hereafter issue shares of stock is not re-enacted, but the rights of holders of existing stock are preserved in section 55.

Chapter 133 of the laws of 1847, the original act for the incorporation of cemetery corporations, did not authorize the issue of stock, nor did it contemplate the running of such corporations for profit. The entire surplus over the debts and expenses was

to be expended in maintaining and improving the cemetery grounds. L. 1860, ch. 163, authorized the issue of certificates of indebtedness to creditors, entitling them, not to any dividend from the profits of the corporation, but merely to the principal and interest of the debt. Later, chapter 107 of the laws of 1875, authorized the exchange of the certificates of indebtedness for certificates of stock, the holders of the certificates of indebtedness, relinquishing the principal and interest of the debt and becoming entitled to all the profits of the corporation. Thus, by an indirect method, the original theory of the act of 1847 has been defeated. The commissioners doubt the desirability or propriety of allowing cemetery corporations incorporated upon a membership basis, to issue stock and become speculative concerns, and therefore report the repeal of the provision authorizing the issue of stock in exchange for certificates of indebtedness without re-enactment.

A cemetery corporation may be organized for business purposes, as a stock corporation, under the business corporations law. If it be a stock corporation in fact, it should be organized under and governed by the laws applicable to other stock corporations.

Prevention of cruelty corporations.

20. Section 70 requires certificate of incorporation of such corporations to be approved by the president of the New York Society for the Prevention of Cruelty to Children and the president of the American Society for the Prevention of Cruelty to Animals, respectively. This provision is new.

Boards of trade.

21. Under L. 1877, ch. 228, a board of trade could originally incorporate either as a membership corporation or a stock corporation. Section 130 only authorizes incorporation as a membership corporation. If the corporation desires to issue stock, it must incorporate under the business corporations law, instead of under this chapter. Incorporated boards of trade which have heretofore issued capital stock entitling holders thereof to dividends will be governed by the busi-

ness corporations law, the stock corporation law and the general corporation law. Those not having issued capital stock will be governed by this chapter.

Agricultural corporations

22. Section 144 authorizes agricultural corporations originally incorporated as membership corporations to issue capital stock, but if this is done the corporation becomes subject to the business and stock corporations laws.

Library corporations

23. L. 1796, ch. 43, L. 1853, ch. 395, and L. 1875, ch. 333, authorizing the creation of library corporations are repealed by this chapter, but not re-enacted. Corporations heretofore incorporated under such laws will be subject to this chapter. Library corporations can be incorporated hereafter only by the regents, under the university law. (L. 1892, ch. 378.)

24. The provisions of L. 1886, ch. 666, and L. 1887, ch. 313, relating to local appropriations for free circulating libraries have been repealed, but not re-enacted, as sufficiently provided for by the university law, § 37.

THE MEMBERSHIP CORPORATIONS LAW.

LAWS OF 1895, CHAPTER 559.

AN ACT relating to membership corporations, constituting chapter forty-three of the general laws.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER XLIII OF THE GENERAL LAWS.

The Membership Corporations Law.

Article 1. General provisions relating to membership corporations. (§§ 1-17.)

2. Corporations for purposes not elsewhere authorized. (§§ 30-31.)

3. Cemetery corporations. (§§ 40-57.)

4. Fire corporations. (§§ 65-66.)

5. Corporations for the prevention of cruelty. (§§ 70-72.)

6. Hospital corporations. (§ 80.)

7. Christian associations. (§§ 90-91.)

8. Bar associations. (§ 100.)

9. Veteran soldiers and sailors' associations. (§§ 110-112.)

10. Soldiers' monument corporations. (§§ 120-122.)

11. Boards of trade. (§§ 130-131.)

12. Agricultural and horticultural corporations. (§§ 140-148.)

ARTICLE I.

General Provisions Relating to Membership Corporations.

Section 1. Short title.
2. Definitions.
3. Relation of article one to the other articles of this chapter.
4. Extension of corporate purposes by supplemental certificates.
5. Incorporation of unincorporated associations.
6. Re-incorporation of membership corporations.
7. Consolidation.
8. By-laws.
9. Members.
10. Directors and trustees.
11. Powers, duties and liabilities of directors.
12. Prohibitions on officers.
13. Purchase, sale, mortgage and lease of real property.
14. Changing number of directors.
15. Changing time of annual meetings.
16. Visitation of supreme court.
17. Reports to comptroller by corporations receiving state moneys.

Section 1. Short title.—This chapter shall be known as the membership corporations law.

[The membership corporations law is intended to apply to the large class of corporations which are organized for non-business purposes, excepting religious corporations, which are governed by the religious corporations law, educational corporations, which are regulated by the university law (Laws 1892, ch. 378), and medical, dental and veterinary corporations, the laws relating to which, in the scheme of the revision, are to be inserted in the public health law. A membership corporation seeking its powers and duties will refer, first, to the general corporation law which is applicable to all corporations; second, to article 1 of this chapter, which is applicable to all membership corporations, and, third, to the special provisions contained in the article of this chapter relating to the class of corporations to which it belongs, or, if there is no such article, a reference to the general corporation law and article I is sufficient.

Article II provides for the incorporation of all non-business corporations, which are not provided for in article III to XII of this chapter, or in any other law. Articles III to XII provide for the incorporation of various classes of corporations, concerning which there are special provisions, which could not properly be applied to all membership corporations.

Corporations heretofore incorporated under laws repealed by this chapter will be governed by its provisions, the new law being in effect a modification or amendment of the law repealed. (See Gen. Corp. L., § 36; Statutory Construction Law, § 32.)]

§ 2. Definitions.—Neither the term membership corporation, nor the term membership corporation created by special law, includes a stock corporation, or a corporation organized for pecuniary profit or a corporation subject to any of the provisions of the insurance law. Subject to such exceptions, the term membership corporation means a corporation hereafter incorporated under this chapter, or heretofore incorporated under any law repealed by this chapter; but does not include a membership corporation created by special law; and the term membership corporation created by special law means a corporation created by special law for purposes for all of which a corporation might be created under this chapter.

[This section is new. For definition of stock corporation, see Gen. Corp. L., § 3.]

§ 3. Relation of article one to the other articles of this chapter.—If in any other article of this chapter there be a provision in conflict with any provisions of this article, such provisions of such other article shall prevail. If in any other article of this chapter there be a provision relating to a matter embraced in this article, but not in conflict therewith, such provision in such other article shall be deemed to be additional to the provision in this article relating to the same subject-matter, and both provisions shall, in such case, be applicable.

[New. This would probably be the effect, without statutory enactment.]

§ 4. Extension of corporate purposes by supplemental certificates.—A membership corporation, created under or by a general or special law, for purposes for which a corporation may be

created under any article of this chapter, may from time to time, extend its corporate purposes so as to include any other purpose for which a corporation may be created under such article, by filing in the offices in which its original certificates of incorporation, if any, are filed, or otherwise in the offices in which original certificates of incorporation for such purposes are required to be filed, a copy of a resolution in favor of such extension, certified by the president and secretary of the corporation to have been duly adopted by the concurring vote of a majority of the members of the corporation present at an annual meeting, or a special meeting duly called for that purpose; and a certificate signed and acknowledged by a majority of the directors of the corporation, in pursuance of such resolution, with the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court and, if the care of orphan, pauper or destitute children be included among such corporate purposes, with the additional approval, endorsed thereupon or annexed thereto, of the state board of charities.

Am'd by ch. 341 of 1902. In effect April 3, 1902.

[See form, No. 3.

L. 1880, ch. 246, § 1; R. S., 8th ed., 2027.

L. 1890, ch. 425; R. S., 8th ed. (Supp.), 3455.

These two statutes only authorized a corporation created for any of the purposes of the club act of 1865, to extend to any other purposes of such act, and corporations created for any of the purposes of the charitable corporations act of 1848, to extend to any other purposes of such act. The section, however, allows any membership corporation to which a special article is not applicable to extend its corporate purposes to any other purpose, except those referred to in articles III to XII, for which membership corporations may be created. Especially, is this grant of power broad in including membership corporations created by special law, enabling them by the mere filing of a certificate after a favorable vote of a majority of members, to extend their purposes to any purpose for which membership corporations may be formed, under article II; and, without the delay and inconvenience of an application to the legislature.]

§ 5. **Incorporation of unincorporated associations.**—An unincorporated club, society or association organized for purposes for which a corporation may be created under any article of this chapter, may, by the unanimous vote of all its members present

and voting at a regular or regularly called meeting thereof, authorize its directors to incorporate for the same purposes, under such article, with a corporate name adopted by such meeting, if notice of the intention so to incorporate be given at least thirty days before such meeting, personally or by mail, to each member of such association whose residence or post-office address is known. On such incorporation, the members of such previously unincorporated club, association or society shall become members of such corporation, and all of the property of such unincorporated club, society or association, or held by any person for its use or benefit, shall vest in and become the property of such corporation, subject to be taken in payment of all claims against such unincorporated club, society or association, or against any of the members thereof as such members, or by reason of their membership therein, the same as if such incorporation had not taken place.

[See form, No. 4.

Political clubs, L. 1886, ch. 236, § 4; R. S., 8th ed., 2028.

Trained nurses, L. 1888, ch. 291, § 6; R. S., 8th ed., 2088.

This section is new, except as to political clubs and associations for training skilled nurses.]

§ 6. Reincorporation of membership corporations.—A membership corporation created by special law for purposes for which a corporation may be created under any article of this chapter may, by the unanimous vote of all its members present and voting at a regular or regularly called meeting thereof, authorize its directors to reincorporate with the same corporate name, for the same purposes under such article. Such reincorporation shall not effect a dissolution of the corporation, but shall be deemed a continuation of its corporate existence, without affecting its property rights, or its liabilities, or the liabilities of its members or officers as such, but thereafter it shall have only such other rights, powers and privileges, and be subject only to such other duties and liabilities as a corporation created for the same purposes under such article.

[See form, No. 5.

New. The provisions of L. 1849, ch. 273, § 2; R. S., 8th ed., 1924, and L. 1888, ch. 391, § 6; R. S., 8th ed., 2088, authorizing benevolent and

charitable corporations previously incorporated under other acts to reincorporate under the act of 1848, and corporations for training skilled nurses previously incorporated under other acts, to reincorporate under the act of 1888, are repealed without re-enactment, as all membership corporations incorporated under general laws, prior to the passage of this chapter will be subject to the provisions of this chapter as fully as if reincorporated hereunder, and any authority for reincorporation of such corporations under this chapter would be useless. The provisions repealed probably applied only to corporations previously incorporated under a general law.

This section adopts the new policy of allowing corporations incorporated by special law, to reincorporate hereunder and thereafter to be governed by this chapter only, instead of applying to the legislature, from time to time, for special legislation amending their charters. There seems to be no reason why a corporation created by special law should not have all the privileges and be subject to all the restrictions of a corporation created under general law for the same purposes, if the corporation so desires.]

§ 7. Consolidation.—Any two or more membership corporations, incorporated under or by general or special laws, for kindred purposes, being purposes for which a corporation may be formed under any article of this chapter, may enter into an agreement for the consolidation of such corporations, setting forth the terms and conditions of consolidation, the name of the proposed corporation, the number of its directors, the time of the annual election and the names of the persons to be directors until the first annual meeting.

Each corporation may petition the supreme court for an order consolidating the corporations, setting forth in such petition the agreement for consolidation, a statement of all its property and liabilities and the amount and sources of its annual income. Before the presentation of the petition to the court, the agreement and petition must be approved by three-fourths of the votes lawfully cast at a meeting of each corporation, separately and specially called for that purpose, which approval, duly verified by the chairman and clerk of such meeting, shall be annexed to the petition. On presentation of the petition, the certificate of approval and the agreement for consolidation, and on such notice to interested parties as the court may prescribe, and after hearing such interested parties as desire to be heard, the court

may make an order for the consolidation of the corporations on such terms and conditions as it may prescribe.

When such order is made and duly entered, such corporation shall become one corporation by the name designated in the order, and be subject only to such duties and obligations as a membership corporation formed under this chapter for the same purposes; and all the property belonging to the corporations so consolidating, shall be vested in and transferred to the new corporation, which shall be subject to all the liabilities of the former corporations, to the same extent as if they had been contracted or incurred by it.

But a corporation for the prevention of cruelty to children or animals shall not consolidate with any other corporation.

Amended by chap. 439 of 1902.

[See form, No. 6.

This section is new. It is consistent with the provisions of § 4, authorizing an extension of corporate purposes.]

§ 8. By-laws.—The by-laws of a membership corporation created by or under a general or special law, may be divided into different classes and designated as constitution, by-laws, rules, regulations, or otherwise, and may provide different methods for amending and repealing such classes, respectively.

The by-laws of any such corporation may make provisions, not inconsistent with law or with its certificate of incorporation, regulating the admission, voluntary withdrawal, censure, suspension and expulsion of members; the fees and dues of members and the termination of membership on non-payment thereof or otherwise; the number, times and manner of choosing, qualifications, terms of office, official designations, powers, duties and compensation of its officers; what shall constitute a vacancy in the office of any such officer and the manner of filling it; the number of members, not less than one-third, or if one-third be nine or more, not less than nine, whose presence shall be necessary to constitute a quorum at its meetings; the qualifications of voters at its meetings; the eligibility of members to be directors; and the classification of its directors into not more than five classes, so that the term of office of all the directors of one class only shall expire each year, and that the term of office of their successors

shall be as many years as there are classes, but not so as to change the term of office of any director then in office.

Such by-laws may authorize holders of the bonds of the corporation secured by mortgage upon its property, to vote for the directors thereof, and may apportion the number of votes each such bondholder may cast to the amount of such bonds held by him.

The by-laws of a membership corporation, incorporated for yachting purposes, may provide that the owners of each yacht shall, together, cast but one vote at the meetings of the corporation.

Animals, breed, L. 1891, ch. 213 § 2; R. S., 8th ed. (Supp.), 3504.
Bar Association, L. 1887, ch. 317, § 2; R. S., 8th ed., 2032.
Benevolent, etc., L. 1848, ch. 318, § 2; R. S., 8th ed., 1922.
Clubs, social, L. 1865, ch. 368, §§ 2, 11; R. S., 8th ed., 2022.
Clubs, political, L. 1886, ch. 236, § 2; R. S., 8th ed., 2028.
Clubs, social, L. 1875, ch. 267, §§ 2, 4; R. S., 8th ed., 2025.
Hospitals, L. 1889, ch. 95, § 8; R. S., 8th ed. (Supp.), 3353.
Library, L. 1796, ch. 43, § 9; R. S., 8th ed., 2036.
Library, L. 1875, ch. 343, §§ 2, 3; R. S., 8th ed., 2041.
Library, L. 1853, ch. 395, § 6; R. S., 8th ed., 2038.
Play-grounds, L. 1888, ch. 293; § 2; R. S., 8th ed., 2014.
Y. W. C. A., L. 1891, ch. 167, § 5; R. S., 8th ed. (Supp.), 3499.

The general corporation law (§§ 11, 29), provides that the by-laws, if any, made by the members shall control the directors, and if none be made by the members, the by-laws of the corporation may be made by the directors.

This section collates the provisions of various existing statutes as to by-laws, extending them to all corporations, and contains a few new provisions not contained in any existing statute.

A by-law adopted in pursuance of law, has the force of law. Brick Church v. Mayor, 5 Cow. 538; Mc Dermott v. Board of Police, 5 Abb. Pr. 422.

A by-law must be reasonable and adapted to the purpose of the corporation. People ex rel. Gray v. Medical Society, 24 Barb. 570.

A private corporation can not repeal a by-law so as to impair rights which have been given and become vested by virtue of the by-law. Kent v. Quicksilver Mining Co., 78 N. Y. 159.

By-laws relating to membership.

The remedies provided by the constitution and by-laws of a membership corporation, in relation to its government, must be exhausted before resort is had to the courts, to correct errors or illegal acts. Lafond v.

Deems, 81 N. Y. 507; Loubat v. Le Roy, 40 Hun, 546; Poultney v. Bachman, 31 Hun, 49; People ex rel. v. Musical Union, 47 Hun, 273; Lewis v. Wilson, 50 Hun, 166; Whiteside v. Noyac Cottage Ass'n, 68 Hun, 565.

A private corporation may restrict its membership, by its by-laws, to such persons as the incorporators choose to allow to become members thereof. People v. Holstein-Friesian Assn., 41 Hun, 439; People v. Franciscus Benevolent Soc., 24 How. Pr. 216.

A member can not be expelled without fair, adequate and sufficient notice, and an opportunity of meeting the accusation against him. Loubat v. Le Roy, 40 Hun, 546, and cases cited; People v. Medical Soc., 32 N. Y. 187; Downing v. St. Columbia's Soc., 10 Daly, 262.

In the absence of an agreement by a member, or of any provision in its charter or by-laws for a different mode of service, notice should be personal, where the object is to deprive a member of his rights or property. Wachtel v. Society, 84 N. Y. 28; People v. Hoboken Club (Gen. Term), 14 N. Y. Supp. 76; Rathbun v. Acker, 18 Barb. 393; People v. Railroad Co., 13 Hun, 212.

A notice requiring a member to appear and answer charges is not a compliance with a by-law, requiring the service of a copy of the charges, and the appearance of the member after such notice does not deprive him of his right to previous service of a copy of the charges. People ex rel. Merschiem v. Musical Union, 47 Hun, 273; People ex rel. Deverell v. Musical Union, 118 N. Y. 101.

Failure to appear and answer is not excused by insanity, and the association may regularly proceed, according to its by-laws, to convict the member of neglect to appear and punish him by expulsion and the loss of all rights in the society. Pfeiffer v. Weishaupt, 13 Daly, 161.

A member can not be expelled because of failure to comply with a by-law which conflicts with the statute or the constitution. People v. Franciscus Soc., 24 How. Pr. 216; People v. Benevolent Soc., 3 Hun, 361.

If a member is improperly expelled, his remedy is by mandamus. People v. Benevolent Soc., 3 Hun, 361; People v. Erie County Medical Society, 32 N. Y. 187; see note, 15 Abb. N. C. 51; People ex rel. Deverell v. Musical Union, 118 N. Y. 101.]

§ 9. **Members.**—Each person signing the certificate of incorporation of a membership corporation, and each person admitted to membership therein, in pursuance of law or its by-laws, shall be a member of the corporation until his membership shall terminate by death, voluntary withdrawal, or otherwise, in pursuance of the by-laws. The right of a member to vote, and all the right, title and interest of a member in or to the corporation, or its property, shall cease on the termination of his member-

ship, unless otherwise provided by law, or by the by-laws of the corporation.

[Bar Associations, L. 1887, ch. 317, § 3; R. S., 8th ed., 2032.
Clubs, political, L. 1886, ch. 236, § 3; R. S., 8th ed., 2028.
Clubs, social, L. 1865, ch. 368, § 2; R. S., 8th ed., 2022.
Clubs, social, L. 1875, ch. 267, §§ 2, 3; R. S., 8th ed., 2025, as am. by L. 1890, ch. 68; R. S., 8th ed. (Supp.), 3298, and L. 1892, ch. 597; R. S., 8th ed. (Supp.), 3299, and L. 1893, ch. 465.
Library, L. 1796, ch. 43, § 8; R. S., 8th ed., 2036.

The extension of the provisions of this section to all corporations works some minor changes in nearly each one, which produce uniformity and simplify the law.

Lotowners and members of a club which owns land and a club-house, on being notified of an assessment purporting to be under its by-laws, can not maintain an action to remove such assessment as a cloud on their title, without having availed themselves of a hearing and defense afforded them within the corporation. Whiteside v. Noyac Cottage Ass'n, 68 Hun, 565.

See note to § 8, in relation to members.]

§ 10. **Directors and trustees.**—The directors of a membership corporation other than those named in its certificate of incorporation, shall be elected from among the members, by the members and by such other persons as are authorized, by or in pursuance of law, to vote therefor.

If a vacancy in the office of director of a membership corporation created under or by a general or special law, shall not be filled within six months after it occurs, either for want of a by-law or other provision for filling the same; or if, by reason of the absence, illness or other inability of one or more of the remaining directors, a quorum of the board of directors can not be obtained, the remaining directors of such corporation, or a majority of them, may appoint a member of such corporation to fill such vacancy, and such appointment filed in the office of the clerk of the county in which such corporation is located, shall constitute such person a director of such corporation, until the next annual election of the directors.

A membership corporation may file in the offices in which its certificate of incorporation is filed, a supplemental certificate designating not less than five nor more than fifteen of its

directors to be the trustees of its property until the next annual meeting, and may by by-law confer on such trustees any of the powers, duties or obligations of the directors of such corporation in relation to the care, custody or management of such property. At each annual meeting of the corporation thereafter the members thereof shall designate successors to the trustees in office.

[See form, No. 7.

Bar Association, L. 1887, ch. 317, § 4; R. S., 8th ed., 2032.
Benevolent, etc., L. 1848, ch. 319, § 3; R. S., 8th ed., 1923.
Benevolent, etc., L. 1892, ch. 333; R. S., 8th ed. (Supp), 3532.
Clubs, political, L. 1886, ch. 235, § 5; R. S., 8th ed., 2029.
Clubs, social, L. 1865, ch. 368, § 3; R. S., 8th ed., 2022.
Clubs, social, L. 1875, ch. 267, § 4; R. S., 8th ed., 2026, as am. by L. 1892, ch. 597; R. S., 8th ed. (Supp. 3299), and L. 1893, ch. 465.
Library L. 1796, ch. 43, §§ 4, 5, 6; R. S., 8th ed., 2034.
Library L. 1825, ch. 19, § 1; R. S., 8th ed., 2036.
Library L. 1875, ch. 343, § 3; R. S., 8th ed., 2041.
Library, L. 1853, ch. 395, § 6; R. S., 8th ed., 2038.
Nurses, L. 1888, ch. 391, §§ 3, 4; R. S., 8th ed., 2087.
Y. M. C. A., L. 1887, ch. 501, § 5; R. S., 8th ed., 1934.
Y. W. C. A., L. 1889, ch. 95, § 6; R. S., 8th ed. (Supp.), 3499.
Y. W. C. A., L. 1894, ch. 325.

By section 29 of the general corporation law, the directors are given general management of the affairs of the corporation; and unless otherwise provided by the by-laws, a majority is made a quorum for the transaction of business.

The provisions of L. 1892, ch. 333, that where vacancy in a board of directors of a benevolent or charitable corporation shall not be filled in six months, etc., a citizen of the state may be appointed by a quorum to fill vacancy, changed by this section to the appointment of a member to fill such vacancy. The provision of L. 1875, ch. 267, § 4, relating to social clubs, as amended by L. 1893, ch. 465, that the members may fix quorum of directors by filing consent in office of county clerk, etc., is omitted, as by this article they may fix the quorum by the by-laws. This section is also applied to corporations created under special laws, and may result in preventing application to the legislature for special legislation. Several slight changes as to particular corporations are made with a view to simplicity and uniformity.

The relation between a director and the corporation is that of trustee. Butts v. Wood, 37 N. Y. 317.

All powers directly conferred by statute, or impliedly granted, may be exercised by the directors. Beveridge v. N. Y. E. R. Co., 112 N. Y. 22.

Corporate powers must be exercised subject to law and the by-laws of the corporation. Id.

A director can not vote by proxy. Craig Med. Co. v. Merchants' Bank, 59 Hun, 561.

The directors must act as a board regularly convened. People's Bank v. St. Anthony's Church, 109 N. Y. 512.

As to powers of directors, see § 39 of general corporation law.]

§ 11. **Powers, duties and liabilities of directors.**—The directors of every membership corporation, except a corporation for the prevention of cruelty to children or animals, and a corporation for promoting or maintaining the principles of a political party, created under or by a general or special law, shall present at its annual meeting a report, verified by the president and treasurer, or by a majority of the directors, showing the whole amount of real and personal property owned by it, where located, and where and how invested, the amount and nature of the property acquired during the year immediately preceding the date of the report and the manner of the acquisition; the amount applied, appropriated or expended during the year immediately preceding such date, and the purposes, objects or persons to or for which such applications, appropriations or expenditures have been made; and the names and the places of residence of the persons who have been admitted to membership in the corporation during such year, which report shall be filed with the records of the corporation and an abstract thereof entered in the minutes of the proceedings of the annual meeting. The directors of every membership corporation, except a society for the prevention of cruelty to children or animals, a corporation for the promotion of agriculture and which holds annual agricultural fairs, and a corporation formed for promoting or maintaining the principles of a political party, shall be jointly and severally liable for any debt of the corporation contracted while they are directors, payable within one year or less from the date it was contracted, if an action for the collection thereof be brought against the corporation within one year after the debt becomes due, and an execution issued therein to the county where its office is, or where a certificate of its incorporation is filed, be returned wholly or partly unsatisfied; and if the action against the directors to recover the amount unsatisfied be commenced within one year after the return of such execution; provided, however, that no director of a corporation formed for promoting or maintaining the principles of a political party shall be liable for any such debt unless the contracting of the same shall have been specifically authorized by the board of directors at a meeting thereof, and assented to thereat by the directors sought to be charged therewith. Am'd by ch. 292 of 1899.

Bar Association, L. 1887, ch. 317, § 8; R. S., 8th ed., 2033.
Benevolent etc., L. 1848, ch. 319, § 7; R. S., 8th ed., 1923.

Clubs, social, L. 1865, ch. 368, § 7; R. S., 8th ed., 2023.
Clubs, social, L. 1865, ch. 267, §§ 8, 9; R. S., 8th ed., 2027.
Library, L. 1865, ch. 43, § 5; R. S., 8th ed., 2035.
Library, L. 1875, ch. 343, § 6; R. S., 8th ed., 2041.
Play-ground, L. 1888, ch. 293, § 6; R. S., 8th ed., 2014.

The provision of nearly all the laws relating to membership corporations, regarding the filing of an annual inventory in the county clerk's office, has proved of no value in practice and is, substantially, a nullity. It has, therefore, been omitted and the first paragraph of this section requiring a report at annual meetings has been made applicable to all membership corporations, including those incorporated by special charter, except corporations for the prevention of cruelty to children or animals. The substance of this paragraph is substantially the same as L. 1882, ch. 268, § 7, relating to alumni associations. The provision of this section, fixing the liability of directors is substantially that of L. 1848, ch. 319, § 7 (charitable corporations), and L. 1865, ch. 368, § 7 (social clubs) and several other similar statutes, and is extended to all membership corporations, except corporations for the prevention of cruelty to children or animals. In some of the laws hereby repealed, the liability is limited to debts in which the directors acquiesce; in others to debts with no limitation as to duration of credit; in some cases no liability of directors is prescribed by statute. By this section a uniform liability of directors is adopted for membership corporations.

A judgment against one trustee upon his several liability does not discharge or affect the liability of another trustee. Strauss v. Trotter (Gen. T. N. Y. Com. Pleas), 6 Misc. Rep. 77.

It has been heretofore held by the courts that the trustees of a club were liable in the first instance as contractors for debts contracted while they hold such office, and not by way of suretyship, and that there was no necessity for a creditor to exhaust his remedy against the corporation; and that in an action against trustees, a judgment against the corporation is not a prerequisite (Robinson v. West, Gen. T., 46 St. Rep. 369; Strauss v. Trotter, Gen. T. Com. Pleas, 6, Misc. Rep. 77; Hall v. Seigel, 7 Lans. 206, aff'm, 53 N. Y. 607; Rogers v. Decker, 131 N. Y. 490, affirming, 62 Hun, 15), but these decisions are superseded by the requirement in § 11 of judgment and execution against the corporation in the first instance.

Trustees must be such at the time of the occurrence of the indebtedness. If notes are given to secure past indebtedness incurred before they became such, trustees are not liable therefor. Metzger v. Carr, 79 Hun, 258.

The liability of the directors is not penal. Rogers v. Decker, 131 N. Y. 490.

An officer of a corporation is not personally liable for debts incurred by him for its benefit, and within the scope of his authority. Sieger v. Culyer, 2 Abb. N. C. 347; aff'd, 67 N. Y. 601.

§ 12. Prohibitions of officers.—No director or other officer of a membership corporation hereafter created shall receive, directly or indirectly, any salary, compensation or emolument from such corporation, either as such officer or director or in any other capacity, unless authorized by the by-laws of the corporation, or by the concurring vote of two-thirds of the directors.

No director or other officer of a membership corporation hereafter created shall be interested, directly or indirectly, in any contract relating to the operations conducted by the corporation, nor in any contract for furnishing supplies thereto, unless expressly authorized by the by-laws of the corporation, and by the concurring vote of all the directors.

The foregoing provisions of this section shall also apply after January 1, 1896, to every membership corporation now existing and heretofore created under any law repealed by this chapter, and until such date the restrictions of law now existing as to such compensation and contracts shall continue applicable to the directors and other officers of such corporation.

[Charitable, L. 1872, ch. 104, § 1; R. S., 8th ed.,1926.
Hospital, L. 1889, ch. 95, § 9; R. S., 8th ed. (Supp.), 3355.

The provision of L. 1872, ch. 104, which prohibits the directors of a benevolent or charitable corporation from receiving any compensation, is changed by this section so as to allow such compensation, if authorized by the by-laws, and the concurring vote of all the directors.

The provision of L. 1889, ch. 95, § 9, which prohibits the board of managers of a hospital corporation from being interested in contracts is changed so as to allow such interest in contracts if expressly authorized by the by-laws and the vote of all the directors, and thus modified these provisions are extended to all membership corporations.

The prohibition against directors of "any charitable or benevolent institution" from receiving any salary or emolument therefrom applies only to such societies as establish asylums or homes for benevolent or charitable purposes, and would be entitled to public money, and not such corporations as are private in their character and are organized for literary or religious objects. N. Y. Bible Soc. v. Budlong (Circuit Ct.), 30 Abb. N. C. 138.]

§ 13. Purchase, sale, mortgage and lease of real property.—No purchase, sale, mortgage or lease of real property shall be made by a membership corporation, unless ordered by the concurring vote of at least two-thirds of the whole number of its directors.

provided however that when the whole number of directors is not less than twenty-one, the vote of a majority of the whole number shall be sufficient. No real property of a membership corporation shall be leased without leave of the court, for a longer period than five years, or sold or mortgaged. A mortgage may be executed to secure the payment of bonds issued or to be issued to different persons. The court may grant leave to a membership corporation to convey real property without consideration to another membership corporation created for the same or kindred purposes.

If a mortgage of the real property of any such corporation be executed and delivered without leave of the court, the court may thereafter, on such proceedings as are required to obtain leave of the court to mortgage such property, confirm such previously executed mortgage, and thereon such mortgage shall be as valid and of the same force and effect as if it had been executed and delivered with leave of the court, except as to purchasers or incumbrancers of such real property, subsequent to the execution and delivery of such mortgage.

A membership corporation may, if its by-laws so provide, and pursuant to the provisions thereof, and without leave of the court, convey to a member of the corporation a portion of its real property for the erection thereupon of a cottage or other dwelling-house with suitable outbuildings, on the terms and conditions that such portion, together with the buildings thereupon, shall belong to such member and on his death pass as part of his estate to his heirs or devisees, but that the land, whereupon such buildings shall be erected, shall be inalienable by him or them, except to the corporation or to a member thereof, and that such member in his lifetime, or after his death, his heirs or devisees, may convey such interest in such property to the corporation, or to a member thereof for such sum as may be mutually agreed on, but not to any other person. Such conveyance may provide that the grantees of the interest in each lot so conveyed shall be entitled to one vote, either in person or by proxy, at all meetings of the corporation, if the by-laws authorize such a provision.

Except as otherwise provided in this chapter no portion of a cemetery of a cemetery corporation which any person other than the corporation is entitled to use for burial purposes, or in which

burials have been made and not lawfully removed, shall be sold, mortgaged or leased by the corporation.

[Amended by chap. 208 of 1900. In effect April 12, 1900.]

[L. 1848, ch. 319, § 3; R. S., 8th ed., 1923.
L. 1855, ch. 425, § 7; R. S., 8th ed., 2016.
L. 1894, ch. 139.
L. 1854, ch. 50, § 1; R. S., 8th ed., 1924.
L. 1861, ch. 58, § 1; R. S., 8th ed., 1925.
L. 1865, ch. 368, § 9; R. S., 8th ed., 2023.
L. 1869, ch. 629, § 1; R. S., 8th ed., 2024.
L. 1875, ch. 267, § 3; R. S., 8th ed., 2025, as am. by L. 1890, ch. 68; R. S., 8th ed. (Supp.), 3298.
L. 1889, ch. 33; R. S., 8th ed. (Supp.), 3293.
L. 1889, ch. 95, § 7; R. S., 8th ed. (Supp.), 3353.
L. 1891, ch. 167, § 6; R. S., 8th ed. (Supp.), 3499.

The provisions of L. 1848, ch. 319, § 3, relating to benevolent, etc., corporations, that no purchase, lease or sale of the real property shall be made unless two-thirds of the directors are present at the meeting at which it is ordered, is changed so as to require the concurring vote of two-thirds of the whole number of directors, and, as so modified, is extended to all membership corporations.

The provisions of this section requiring leave of court to mortgage or sell real property is new as to a large number of corporations. L. 1861, ch. 58, requires leave of court for leasing real property of benevolent, etc., corporation.

Code of Civil Procedure, §§ 3390-96, provide for the procedure on application for leave to sell, etc., real property, and requires a vote of, at least, two-thirds of the directors, at a duly called meeting and authorizes the court to require notice of the application to be given to parties interested as members or otherwise. The corresponding provisions of existing law are, therefore, repealed, without re-enactment here. The provision of L. 1865, ch. 368, § 9, authorizing social clubs to apply to county judge for leave to mortgage the real property and issue bonds, entitling the holders to participation as voters at meetings of the corporation, is extended to all membership corporations. The participation which a bondholder shall have in the affairs of the corporation is not fixed by this section, but may be regulated by the by-laws pursuant to § 8 of this chapter.

The provision authorizing the court to grant leave to a membership corporation to convey its real property without consideration to another membership corporation of the same or a kindred nature is new.

A provision has been inserted allowing the court to confirm a sale, etc., made without leave of the court as required by law, but not so as to affect subsequent purchasers and incumbrancers. This will cover the provisions of L. 1869, ch. 629, § 1, as am. by L. 1884, ch. 68, authorizing the court to confirm a bond or mortgage given by a social club, prior to March 29, 1889. The extension of this power is new.

The provision of L. 1868, ch. 267, § 3, authorizing a social club to convey, without leave of court, portions of its real property to members for cottages, etc., is extended to all membership corporations.

The general corporation law, §§ 11 and 12, authorizes membership corporations to acquire and hold property for corporate purposes, not exceeding in value $3,000,000 or the yearly income from which does not exceed $500,000.

For provisions as to the acquisition of property by will, and the taxation and exemption of property, see ante.

It was held under L. 1854, ch. 50, that a mortgage of real estate made by a charitable or benevolent corporation without leave of the supreme court is void. Dudley v. Congregation of St. Francis (Gen. T.), 47 St. Rep. 60-7; affm'd 138 N. Y. 451.]

§ 14. Changing number of directors.—A membership corporation, created under or by a general or special law, may, by a majority vote at an annual meeting, determine to change the number of its directors to any number which a corporation created under this chapter for the same purposes is authorized to have. On such determination, a majority of the directors shall sign, acknowledge, and file a supplemental certificate specifying such reduction or increase; and thereon the number of directors shall be the number stated in such certificate. Each director then in office shall serve until his term expires, and there shall be no election of directors until, the number of directors is less than the number specified in the certificate.

[See form, No. 8.

L. 1848, ch. 319, § 11; R. S., 8th ed., 1924.

L. 1865, ch. 368, § 3; R. S., 8th ed., 2022.

L. 1875, ch. 267, § 4; R. S., 8th ed., 2026, as am. by L. 1892, ch. 597; R. S., 8th ed. (Supp.), 3299, and L. 1893, ch. 465.

L. 1887, ch. 317, § 5; R. S., 8th ed., 2032.

L. 1892, ch. 197; R. S., 8th ed. (Supp.), 3521, as am. by L. 1893, ch. 180.

L. 1888, ch. 391, § 4; R. S., 8th ed., 2087.

This section is L. 1892, ch. 197, as amended by L. 1893, ch. 180, without change in substance, extended to all membership corporations. The extension to those created under special laws is new. There is a lack of uniformity in the provisions of existing law.

In some cases the consent of two-thirds of the members is required; in others, the change may be made by a majority of the members, and in others, by the trustees themselves.]

§ 15. Changing time of annual meetings.—The time of holding the annual meeting of a membership corporation, created under or by a general or special law, may be changed, from time to time, by vote of an annual meeting, or of a special meeting duly called for that purpose, and by filing a supplemental certificate of incorporation containing a transcript of the minutes of the meeting, relating to such change, duly certified and verified by the president and secretary of the meeting.

[See form, No. 9.

This section is new as to most membership corporations. General corporation law, § 5, provides for the filing, etc., of supplemental certificates.]

§ 16. **Visitation of supreme court.**—All membership corporations with their books and vouchers, shall be subject to the visitation and inspection of a justice of the supreme court, or of any person appointed by the court for that purpose. If it appears to such court by the verified petition of a member or creditor of any such corporation, that it, or its directors, officers or agents. have misappropriated any of the funds or property of the corporation, or diverted them from the purpose of its incorporation, or that it has acquired property in excess of the amount which it is authorized by law to hold, or engaged in any business other than that stated in its certificate of incorporation, it may order that a notice of at least eight days be served on the directors of the corporation, with a copy of such petition, requiring them to show cause at a time and place to be therein specified, why they should not be required to make and file an inventory and account of the property, effects and liabilities of such corporation with a detailed statement of its transactions during the twelve months next preceding the granting of such order; and, if on the hearing of such application, no good cause is shown to the contrary, the court may make an order requiring such inventory, account and statement to be filed, and proceed to take and state an account of the property and liabilities of the corporation, or appoint a referee for that purpose; and when such account is taken and stated, it may, after hearing all the parties to the application, enter

a final order determining the amount of property so held by the corporation, its annual income, whether any of the property or funds of the corporation have been misappropriated or diverted to any other purpose than that for which such corporation was incorporated, and whether such corporation has been engaged in any other business than that specified in its certificate of incorporation, from which final order an appeal may be taken by any party aggrieved to the appellate division of the supreme court, and to the court of appeals; but no corporation shall be required to make and file more than one inventory and account in any one year, nor to make a second account and inventory, while proceedings are pending for the statement of an account under this section. Am'd by ch. 360 of 1899. In effect Apr. 18, 1899.

[L. 1848, ch. 319, § 8; R. S., 8th ed., 1923.
L. 1888, ch. 293, § 6; R. S., 8th ed., 2014.
L. 1865, ch. 368, § 8; R. S., 8th ed., 2023.
L. 1875, ch. 267, § 9; R. S., 8th ed., 2027.
L. 1875, ch. 343, § 7; R. S., 8th ed., 2042.

The provision relating to visitation by the supreme court is here retained, and the rights of members further secured by a summary application by an aggrieved member, and a speedy and inexpensive judicial investigation. The provision is new as to many membership corporations.]

§ 17. Reports to comptroller by corporations receiving state moneys.—No moneys appropriated by the legislature from the treasury of the state to a membership corporation, created under or by a general or special law, except a corporation subject to the visitation of the regents of the university of the state of New York, shall be paid to it or to any institution under its care, control or management, until its president and secretary, or a majority of its directors, make a sworn report to the comptroller of its purposes, operations, financial condition, expenditures and management, and particularly, of the disposition of moneys appropriated by the legislature for the maintenance of such institution, for the year

ending with the last preceding thirtieth day of September. The comptroller shall transmit such report to the legislature with his annual report.

[L. 1864, ch. 419, § 1; R. S., 8th ed., 1925.
Extended expressly to corporations created by special law. Originally applied to hospitals, orphan asylums, etc.]

ARTICLE II.

Corporations for Purposes not Elsewhere Authorized.

SECTION 30. Purposes for which a corporation may be created under this article
31. Certificates of incorporation.
32. Incorporation of associations of more than five thousand members
33. Effect of incorporation.
34. Annual assembly or convention.
35. Board of directors.
36. Special powers.

§ 30. **Purposes for which a corporation may be formed under this article.**—A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

[New in form and partly new in substance. This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in § 2 will prevent the formation of a stock corporation, or of a mutual benefit insurance corporation under this article. See note to section 1.]

§ 31. **Certificates of incorporation.**—Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village, or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; and the names and places of residence of the persons to be its directors until its first annual meeting. Such certificate shall not be filed without the written approval, endorsed thereupon or annexed thereto, of a

justice of a supreme court. If such certificate specify among such purposes the care of orphan, pauper or destitute children, the establishment or maintenance of a maternity hospital or lying-in asylum where women may be received, cared for or treated during pregnacy or during or after delivery, or for boarding or keeping, nursing children, the written approval of the state board of charities shall also be endorsed thereupon or annexed thereto, before the filing thereof. On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate. Any corporation heretofore or hereafter organized under this article for the purpose of gathering, obtaining and procuring information and intelligence, telegraphic or otherwise for the use and benefit of its members, and to furnish and supply the same to its members for publication in newspapers owned or represented by them may admit as members thereof, other corporations, limited liability companies, joint stock and other associations, partnerships and individuals engaged in the same business or in the publication of newspapers, periodicals or other publications, upon such terms and conditions, not inconsistent with law or with its certificate of incorporation, as may be prescribed in its by-laws.

Amended by ch. 436 of 1901. In effect April 18, 1901

[See form, No. 10.

Animals, breed, L. 1891, ch. 213, § 1; R. S., 8th ed. (Supp.), 3504.
Benevolent, etc., L. 1848, ch. 319, §§ 1-2; R. S., 8th ed., 1922.
Clubs, political, L. 1886, ch. 236, §§ 1-2; R. S., 8th ed., 2027.
Clubs, social, etc., L. 1865, ch. 368, §§ 1-2; R. S., 8th ed., 2021.
Clubs, social, etc., L. 1875, ch. 267, §§ 1-2; R. S., 8th ed., 2024.
Fine arts, L. 1850, ch. 242, § 1; R. S., 8th ed., 2044.
Hospitals, L. 1859, ch. 95, §§ 1, 2, 5; R. S., 8th ed. (Supp.), 3353.
Labor unions, L. 1871, ch. 875, § 1; R. S., 8th ed., 2047.
Nurses, L. 1888, ch. 391, §§ 1-2; R. S., 8th ed., 2078.

Consolidated so far as provisions relating to execution, contents and filing of certificate of incorporation are concerned, with numerous minor changes in unimportant details, made for the sake of simplicity of statement and uniformity. The minimum number of signers of certificate and of directors is in many cases reduced, and the maximum number increased.

The general qualifications of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation of membership corporations, are provided by the general corporation law, §§ 3-9.

The persons before whom acknowledgment may be taken are specified in statutory construction law, § 15.

If trustees or directors are named, it will be considered a compliance with requirement that number be stated. Betts v. Betts (Sp. T.), 4 Abb. N. C. 317.

The approval of a judge is not conclusive on the secretary of state as to regularity of certificate. People v. Nelson, 46 N. Y. 477.

Secretary of state can not be compelled to file a certificate of a corporation as a social organization, when its objects are of a business nature. People ex. rel. Davenport v. Rice, 68 Hun, 24; 128 N. Y. 121.

Remedy against secretary of state for refusal to file a certificate is by mandamus, upon application to general term (appellate division) of supreme court. Code Civil Procedure, § 605; People ex rel. v. Rice, 128 N. Y. 121; People ex rel. v. Rice, 138 N. Y. 614; People ex rel v. Rice, 120 N. Y. 461 Section 605 is amended by L. 1895, ch. 946, taking effect Jan. 1, 1896, so as to allow application to be made to special term.]

§ 32. **Incorporation of associations of more than five thousand members.**—Any association, society or league, having no capital stock and not organized for pecuniary profit, composed of more than five thousand members and governed by a representative body may incorporate under the provisions of this article for the purposes for which it was organized, if such purpose is one for which a corporation may be formed under this article. The certificate of incorporation shall be made by a committee of not less than five members who must be authorized to procure the incorporation and make the particular certificate, by the same affirmative vote, taken in the same manner, as the constitution or fundamental law of the association, society or league requires for an amendment or change in the constitution or fundamental law thereof.

[New.] [Added by ch. 681 of 1900. In effect April 25, 1900.]

§ 33. **Effect of incorporation.**—The members of such association, society or league shall become the members of the corporation created under the provisions of the preceding section; all the property owned by, held for or in any wise belonging to such association, society or league shall belong to the corporation; the constitution and by-laws, together with the official terms and duties of all officers and committees, are continued, except so far as contrary

to the provisions of this chapter; and the business or purposes of the corporation may be carried on beyond the limits of the state.

[New.] [Added by ch. 681 of 1900. In effect April 25, 1900.]

§ 34. **Annual assembly or convention.** — In place of holding an annual meeting of all the members, such corporation may provide in its constitution and by-laws for an annual election by its members, of representatives or delegates either at large or from special districts; and in such case, no annual meeting of the members shall be held. Such delegates or representatives, when assembled under the name and in the manner directed by the constitution and by-laws of the corporation, shall have and may exercise all the powers, rights and privileges of an annual meeting of the corporation. The time and place of holding such annual assembly or convention may be prescribed in the constitution or by-laws of the corporation and changed from time to time. The annual assembly or convention may be held without the state.

[New.] [Added by ch. 681 of 1900. In effect April 25, 1900.]

§ 35. **Board of directors.**—Whenever otherwise provided by law and as exceptions thereto, the constitution and by-laws of each such corporation may prescribe the quorum of the board of directors; the method of filling vacancies in the board of directors; the continuance of the directors in office until their sucessors* have been severally elected and accepted their offices; the officers of the corporation who are to execute any agreement or contract authorized by the board of directors; and the character, contents and method of execution of the annual report of the board of directors.

[New.] Added by chap. 681 of 1900. In effect April 25, 1900.

§ 36. **Special powers.**—Any such corporation formed for defending the rights of cyclists, facilitating touring and securing the construction and maintenance of good roads and cycle paths by public authority, may prefer a complaint before any court, tribunal

* So in the original.

or magistrate having jurisdiction for the violation of any law, ordinance or regulation made by public authority and relating to the purposes of the corporation, and may aid in presenting the law and facts to such court, tribunal or magistrate.

[New.] [Added by chap. 681 of 1900. In effect April 25, 1900.]

ARTICLE III.

Cemetery corporations.

Section 40. Definitions.
41. Certificates of incorporation.
42. Cemeteries in Kings, Queens, Rockland and Westchester counties.
43. Corporate meetings.
44. Directors.
45. Acquisition of property.
46. Surveys and maps of cemetery.
47. Rules and regulations.
48. Record of burials.
49. Title and rights of lot owners.
50. Application of proceeds of sales of lots.
51. Burials and removals.
52. Taxation of lot owners by corporation.
53. Expenses of improving vacated lot.
54. Certificates of indebtedness.
55. Certificates of stock heretofore issued.
56. Private cemetery corporations.
57. Family cemetery corporations.
61. Lot owners in unincorporated cemeteries may determine upon incorporating under this article.
62. Meeting to determine such question.
63. Incorporation pursuant to meeting; conveyance of property to corporation.

§ 40. Definitions.—In this article, the term burial includes the act of placing a dead human body in a mausoleum, vault or other proper receptacle for the dead, as well as in the earth; the term lot owner or owner of a lot means any person having a lawful title to the use of a lot, plat or part of either in a cemetery; and the term cemetery corporation, means any corporation heretofore created for cemetery purposes under a law repealed by this chapter, or hereafter created under this article, but the general term cemetery corporation does not include a family cemetery

corporation or a private cemetery corporation. This article does not apply to cemeteries belonging to religious or municipal corporations.

[New.]

§ 41. Certificate of incorporation.—Seven or more persons may become a cemetery corporation, by making, acknowledging and filing in the offices of the secretary of state and of the clerk of the county where the cemetery of such corporation, or a part thereof, is to be situated, a certificate specifying each county, town, city and village in which such cemetery or any part thereof is to be situated; the name of the proposed corporation; the times of holding its annual meetings; the number of its directors; either six, nine, twelve, or fifteen; and the names of the persons to be directors until others are elected in their places, divided into three equal classes, each class to hold office until the first, second and third annual meetings thereafter, respectively.

Such certificate may also specify a percentage of the surplus proceeds of sales of lots, after payment of the purchase-price of the real property of the corporation, to be invested as a permanent fund, the income of which shall be used for the improvement, preservation and embellishment of the cemetery grounds, and for no other purpose. Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation, in accordance with the provisions of such certificate.

[See form, No. 11.

L. 1847, ch. 133, §§ 1-3; R. S., 8th ed., 1935, as am. by L. 1893, ch. 34. Without change of substance, except

(1) Requiring the number of directors of corporations hereafter created to be a multiple of three, and increasing the maximum from twelve to fifteen.

(2) Requiring approval of certificate by justice of the supreme court.

(3) Requiring the certificate to be filed with the secretary of state.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. See note to § 31.]

§ 42. **Cemeteries in Kings, Queens, Rockland, Westchester and Erie counties.**—A cemetery corporation shall not take by deed, devise or otherwise any land in either of the counties of Kings, Queens, Rockland, Westchester and Erie for cemetery purposes, or set apart any ground for cemetery purposes in either such county, unless the consent of the board of supervisors thereof be first obtained, which board may grant such consent upon such conditions, regulations and restrictions as, in its judgment, the public health or the public good may require. Notice of application to any such board for such consent shall be published once a week for six weeks, in two newspapers of the county having the largest circulation therein, stating the time when the application will be made, a brief description of the lands proposed to be acquired, their location and the quantity thereof. All persons interested therein may be heard on the presentation of such application; and if such consent is granted, the corporation may take and hold the lands designated in such consent, which shall not authorize any one corporation to take or hold more than two hundred and fifty acres. The board of supervisors of each such county may, from time to time, make such regulations as to the mode of burials in any cemetery in the county as, in its judgment, the public health may require.

Am'd by ch. 193 of 1896. Took effect on April 1, 1896.

[L. 1852, ch. 280, §§ 3, 4; R. S., 8th ed., 1939.
L. 1854, ch. 238, § 3; R. S., 8th ed., 1939.
L. 1889, ch. 389, §§ 1, 3; 8th ed. (Supp.), 3295.

None of the provisions from which this section is derived are repealed, as they apply to individuals as well as corporations. There is no change in substance as to corporations.]

§ 43. **Corporate meetings.**—Public notice of each annual meeting of a cemetery corporation shall be given in a manner to be prescribed by its by-laws. Each person of full age owning the use of a lot or plat, or part of either, containing at least ninety-six square feet of land in the cemetery of the corporation, or if there be two or more owners of such lot, then one of them designated by a majority of such joint owners to represent such lot or plat, or part of either, may cast one vote for each such lot or plat, or part of either, so owned, at the meetings of the corporation.

Each owner of a certificate of stock heretofore lawfully issued, and each owner of a certificate of indebtedness of a cemetery corporation, may vote at the meetings of the corporation. Each owner of stock heretofore lawfully issued shall be entitled to one vote for each share of stock owned by him at the meetings of the corporation. Each owner of a certificate of indebtedness of a cemetery corporation shall be entitled to one vote at such meetings for each one hundred dollars of such indebtedness.

[L. 1847, ch. 133, § 5; R. S., 8th ed., 1939, as am. by
L. 1890, ch. 229; R. S., 8th ed. (Supp.), 3294.
L. 1860, ch. 163, § 3; R. S., 8th ed., 1940.
L. 1879, ch. 107, § 2; R. S., 8th ed., 1944.

§ 44. Directors.—The directors of a cemetery corporation shall be elected at its annual meetings, by ballot, by the persons entitled to vote thereat. If at any such meeting one-fifth of the owners of lots or plats shall not, in person or by proxy, vote thereat, the directors shall be chosen by the existing directors, or a majority of them, unless such directors shall, at such meeting be chosen by a majority of the votes of the owners of certificates of stock or indebtedness. The term of office of a director shall be three years. A vacancy in the office of a director shall be filled by appointment, by the remaining directors, until the next annual meeting, when it shall be filled by election for the unexpired term. After the first annual meeting, no one but a lot owner shall be eligible to the office of director. The directors may change their number to either six, nine, twelve or fifteen, by signing, acknowledging, and filing a supplemental certificate stating the number of directors the corporation shall thereafter have; and thereafter there shall be elected at each annual meeting, one-third of the number of directors fixed by such certificate; but the directors then in office shall continue in office until the expiration of their terms. In case any annual meeting of a cemetery corporation shall not be held on the day designated by the certificate of incorporation, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting notice shall be given in the same manner as of the annual meeting for the election of directors. If such meeting shall not be so called within one month, or, if held, shall result in a failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held, and in such other manner as may be prescribed in the by-laws for the publishing of notice of the annual meeting, and by posting at least six printed or written, or partly printed and partly written notices in six conspicuous places in the town or city in which such corporation has its principal place of business, at least two weeks before such meeting. The directors so elected at such special meeeting to fill a vacancy caused by the expiration of a term of office shall be chosen for the full term of three years, except where the aggregate number of the directors so chosen shall exceed one-third of the whole number of directors, and in that event such directors shall be chosen in such manner that the term of office of one-third of the whole number of directors of such corporation shall expire at the time of holding each annual meeting thereafter.

Amended by ch. 415 of 1901. In effect April 18, 1901.

This section provides that vacancies in the board of directors occurring other than by expiration of term may be filled by the board until the next annual election instead of for the remainder of the term as by L. 1847, chap. 133, § 5.]

§ 45. Acquisition of property.—If the certificate of incorporation or by-laws of a cemetery corporation do not exclude any person from the privilege, on equal terms with other persons, of purchasing a lot or of burial in its cemetery, such corporation may, from time to time, acquire by condemnation, exclusively for the purposes of a cemetery, not more than two hundred acres of land in the aggregate, forming one continuous tract, wholly or partly within the county in which its certificate of incorporation is recorded, except as in this article otherwise provided, as to the acquisition of land in the counties of Kings, Queens, Rockland and Westchester.

A cemetery corporation may acquire by condemnation, exclusively for the purposes of a cemetery, any real estate or any interest therein necessary to supply water for the uses of such cemetery, and the right to lay, relay, repair and maintain conduits and water pipes with connections and fixtures, in, through or over the lands of others; the right to intercept and divert the flow of waters from the lands of riparian owners, and from persons owning or interested in any waters. But no such cemetery corporation shall have power to take or use water from any of the canals of this state, or any canal reservoirs as feeders, or any streams which have been taken by the state for the purpose of supplying the canals with water. A cemetery corporation may acquire, otherwise than by condemnation, real property as aforesaid and additional real property, not exceeding in value two hundred thousand dollars, for the purposes of the convenient transaction of its general business, no portion of which shall be used for the purposes of a cemetery. A cemetery corporation may acquire, otherwise than by condemnation, additional real or personal property, absolutely or in trust, in perpetuity or otherwise; and use the same or the income therefrom in pursuance of the terms on which the same is acquired, for the following purposes, only:

1. The improvement or embellishment, but not the enlargement of its cemetery;

2. The construction or preservation of a building, structure, fence or walk therein;

3. The renewal, erection or preservation of a tomb, monument, stone, fence, railing or other erection or structure on or around any lot therein; or,

4. The planting or cultivation of trees, shrubs, flowers or plants in or about a lot therein.

A cemetery corporation may accept a conveyance of real property held by a religious corporation for burial purposes, or by trustees for such purposes, if all such trustees, living and residing in this state, unite in the conveyance, subject to all burdens, trusts and conditions to which the title of such grantors was subject. Lots previously sold in any such lands, and grants for burial purposes therein previously made, shall not be affected by any such conveyance; nor shall any grave, monument or other erection thereupon, or any remains therein, be disturbed or removed without the consent of the lot owner, or if there be no such owner, without the consent of the heirs of the persons whose remains are buried in such grave. No cemetery shall hereafter be located in any city or incorporated village, without the consent of the common council of such city, or the board of trustees of such village, as the case may be.

Am'd by ch. 325 of 1896. Took effect April 18, 1896.

L. 1847, ch. 133, §§ 4, 9; R. S., 8th ed., 1935, as am. by L. 1896, ch. 382; R. S., 8th ed. (Supp.), 3293.

L. 1870, ch. 527, §§ 1, 4; R. S., 8th ed., 1941.

L. 1881, ch. 139, § 1; R. S., 8th ed., 1948.

L. 1892, ch. 498; R. S., 8th ed. (Supp.), 3603.

By L. 1847, ch. 133, § 4, the property acquired by the corporation must be within the county, while by this section it may be partly in the county and partly in an adjoining county.

Last paragraph is new.

This section authorizes the corporation to acquire lands for cemetery purposes by condemnation, if unable to agree with the owners for the purchase thereof. The court of appeals in the matter of the Deansville Cemetery Association, 66 N. Y. 569, held that the provision in chapter 452 of the Laws of 1873, authorizing the taking of lands by a rural cemetery association by a proceeding in invitum was unconstitutional for the reason that under the rural cemetery act of 1847 the use for which the property was taken was not a public one.

The case seemed to turn upon the point that by the provisions of the act the title to the fee of the property was ultimately to vest in the lot-owners; and it was, therefore, the taking of the property of one person for the use and benefit of another, and not of the public; and stress was laid on the fact that no right on the part of the public to buy lots or bury their dead in such a cemetery was secured by the provisions of the act under which the association was incorporated. The commissioners have attempted to obviate the constitutional objection by the limiting clause at the beginning of the section.

"It seems to be settled law that lands may be condemned for the purpose of a public cemetery, where the public in general have a right to obtain interment." (Farneman v. Mt. Pleasant Cem. Ass'n, Ind., 55 N. E. 271, and cases cited.)

The limitation in L. 1847, ch. 133, of personal property to $5,000 has been omitted, and the corporation is brought under §§ 11, 12 of the general corporation law.

The provision of L. 1892, ch. 498, that real property acquired by a cemetery corporation for general business purposes is not exempt from taxation, is omitted. The property is taxable unless exempted by L. 1893, ch. 498 (post), which only exempts the property of the corporation used exclusively for cemetery purposes.

A cemetery corporation is the legal owner in fee of lands purchased for the purposes of the association. Buffalo Cemetery v. Buffalo, 46 N. Y. 503.]

Laws 1847, ch. 133.

§ 10. Exemption of property, etc.; individual rights; streets, roads and avenues through.— The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessments, and shall not be liable to be sold on execution, or be applied in payment of debts due from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the legislature of the state.

[This section was not repealed by the commissioners. This section does not exempt the land and property of the association from a municipal assessment to defray the expenses of a local improvement. Buffalo City Cemetery v. Buffalo, 46 N. Y. 506; Buffalo City Cemetery v. Buffalo, 43 Hun, 127; affirmed, 118 N. Y. 61.

An injunction will lie to restrain town officers from wrongfully laying out a highway through a cemetery. Trustees v. Walsh, 57 Ill. 363.]

Laws 1871, ch. 419.

Section 1. Supreme court may order sale of lands; may direct application of moneys therefrom; grounds used for interments not to be sold.— It shall be lawful for the supreme court of this

state, upon the application of the trustees of any burial ground or rural cemetery association, in case such court shall deem it proper, to make an order for the sale of any real estate belonging to such burial ground or rural cemetery association, and to direct the application of the moneys arising therefrom by such trustees to such uses as such trustees, by the consent and approbation of such court, shall conceive to be most for the interest of the association to which the real estate so sold did belong. Provided, that no part or portion of the real estate of any burial ground or rural cemetery association which has been, now is, or hereafter may be used for actual interments, shall be sold in pursuance of the provisions of this act.

§ 2. Proviso as to sales of real estate; repeal.—No real estate of any rural cemetery or rural cemetery association shall be sold otherwise than in pursuance of the act or acts under which such cemetery or association was incorporated, nor for any other than cemetery purposes except as provided by section one of this act; and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

[This act was not repealed. It appears to apply to cemeteries held by religious corporations and municipalities.]

Laws 1879, ch. 310.

Section 1. Lands used for, not to be sold on execution or mortgaged.—No land actually used and occupied for cemetery purposes shall be sold under execution or for any tax or assessment, nor shall such tax or assessment be levied, collected, or imposed, nor shall it be lawful to mortgage such land, or to apply it in payment of debts, so long as it shall continue to be used for such cemetery purposes.

§ 2. Lien after use has ceased.—Whenever any such land shall cease to be used for cemetery purposes, any judgment, tax, or assessment which, but for the provisions of this act, would have been levied, collected or imposed, shall thereupon, forthwith, together with interest thereon, become and be a lien and charge upon such land, and collectible out of the same

§ 3. Limitation.—The provisions of this act shall not apply to any lands held by the city of Rochester.

[Not repealed. This act applies to cemeteries held by religious corporations, as well as those held by membership corporations.]

§ 46. Surveys and maps of cemetery.—Every cemetery corporation shall, from time to time, as land in its cemetery may be required for burial purposes, survey and subdivide such land into lots or plats, with avenues, paths, alleys, walks and ornamental plats; and make and file a map thereof in the office of the corporation, open to the inspection of all persons. Any unsold lots, plats or parts of lots or plats, in which there have not been any burials may, by order of the directors, be resurveyed and altered in shape or size, and properly designated on such maps.

[L. 1847, ch. 133, § 4; R. S., 8th ed., 1936, as am. by L. 1891, ch. 382, § 1; R. S., 8th ed. (Supp.), 3293.
L. 1847, ch. 133, § 7; R. S., 8th ed., 1937.
Re-enacts parts of §§ 4 and 7, without change of substance.]

§ 47. Rules and regulations.—The directors of a cemetery corporation may make reasonable rules and regulations for the use, care, management and protection of the property of the corporation and of all lots, plats and parts thereof in its cemetery; for regulating the dividing marks between the various lots, plats and parts thereof, their size, shape, location, and the size of erections thereupon; for prohibiting or regulating the erection of structures upon such lots, plats or parts thereof; for preventing unsightly monuments, effigies and structures within the cemetery grounds, and for the removal thereof; for regulating the introduction and care of plants, trees and shrubs within such grounds; for the prevention of the burial in a lot, plat or part thereof, of a person not entitled to burial therein; for regulating or preventing disinterments; for the conduct of persons while within the cemetery grounds; and for the exclusion of improper persons therefrom and improper assemblages therein.

Such rules and regulations shall be plainly printed and publicly posted in the principal office of the corporation, and in such places upon the cemetery grounds as the directors by resolution

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prescribe. The directors may prescribe penalties to be paid by a person violating any such rule or regulation, not exceeding twenty-five dollars for each violation, which shall be recoverable by the corporation in a civil action.

[L. 1847, ch. 245, § 4; R. S., 8th ed., 1943.
Without change of substance, except that the power to prescribe penalties is new.

A cemetery corporation may restrict interment in its grounds to persons of a particular religious faith. People ex rel. Coffers v. Trustees, 21 Hun, 184; McGuire v. St. Patrick's Cathedral, 54 Hun, 207. A different construction, it would seem, might arise if lands were acquired by condemnation, pursuant to § 45.]

§ 48. Record of burials.—A record shall be kept of every burial in the cemetery of a cemetery corporation, showing the date of the burial, the name, age and place of birth of the person buried, when these particulars can be conveniently obtained, and the lot, plat, or part thereof, in which such burial was made. A copy of such record, duly certified by the secretary of such corporation, shall be furnished on demand and payment of such fees therefor as are allowed the county clerk for certified copies of records.

[L. 1847, ch. 133, § 3; R. S., 8th ed., 1938, as added by L. 1891, ch. 382; R. S., 8th ed. (Supp.), 3205.
Without change of substance.]

§ 49. Title and rights of lot owners.—The directors must fix and determine the prices of the burial lots or plats, and keep a plainly printed copy of the schedule of such prices publicly posted in the principal office of the corporation, open at all reasonable times to the inspection of all persons.

The corporation, unless its certificate of incorporation or by-laws otherwise provide, shall, subject to its rules and regulations, sell and convey to any person, the use of the lots or plats designated on the map filed in the office of the corporation, on payment of the prices so fixed and determined, but need not sell and convey more than one lot or plat to one person. The conveyances of lots and plats shall be signed by the president or vice-president and treasurer of the corporation. All lots, plats or parts thereof,

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the use of which has been so conveyed as a separate lot, shall be indivisible, except with the consent of the lot owner and the corporation; and the use of the same for burial purposes, after a burial therein, shall be inalienable and be held in perpetuity by the grantee and his heirs, except as otherwise provided in this section; and on the death of the grantee shall descend to his heirs-at-law, or to such of them, or to such other person or persons, or to such other class or classes of persons, as may be designated in such conveyance. An heir may release to the other heirs, and a joint owner may release to the other joint owners, his interest therein, on conditions specified in the release, which shall be filed in the office of the corporation. The title of a grantee, or his heirs, shall not be affected by the dissolution of the corporation or its non-user of its corporate rights and franchises, or any act of forfeiture on its part, or any alienation of its property or incumbrance thereon made or suffered by it. If no burial be made in any such lot, or if all the dead bodies buried therein be lawfully removed therefrom, the owners thereof may, with the consent of the corporation, sell the use of such lot. The secretary of the cemetery corporation shall file and record in its books all deeds of transfer. A lot owner may reconvey or devise to the corporation his right and title in and to any lot theretofore conveyed to him by such corporation.

[L. 1847, ch. 133, §§ 4, 7, 11; R. S., 8th ed., 1936; as am. by L. 1891, ch. 382, § 1; R. S., 8th ed. (Supp.), 3293.
L. 1880, ch. 566, §§ 2, 3, 4; R. S., 8th ed., 1944.
L. 1891, ch. 344; R. S., 8th ed. (Supp.), 3513.

The clause providing that sales shall be made to any person, and at uniform prices, is new.

The provision authorizing the sale of the use only of the lot is new.

The provision that the title of the lot-owner shall not be affected by the dissolution of the corporation or by any alienation or incumbrance made by it is new.

L. 1847, ch. 133, § 7, made all the lots indivisible, while by this section the lots can be divided with the consent of the lot-owner and the corporation.

The holder of a lot only acquires a use for burial purposes. Buffalo City Cem. v. Buffalo, 46 N. Y. 503.

A purchase of a cemetery lot vest in purchaser exclusive permission to use it for burial purposes, without the execution of a deed. Conger v. Treadway, 50 Hun, 451.

No such interest is granted to a lot-owner as to exclude the general proprietorship of the corporation. Went v. Methodist Church, 80 Hun, 266.

All monuments and erections capable of being removed are the personal property of the lot-owner, and he has the right to remove them on the grounds ceasing to be used for burial purposes. Partridge v. First Church, 39 Md. 631; Barnes v. Barnes, 6 Vt. 388; Ashman v. Williams, 8 Pick. 402; Bruce v. Case, 10 Conn. 375.

A family burial lot, in which interments have been made, can not be sold to a stranger by one member of the family, and injunction will lie. Schrouder v. Wanzor, 36 Hun, 423.

As to mortgage of lots in Greenwood cemetery, and generally in relation thereto, see Lautz v. Buckingham (Gen. T.), 11 Abb., N. S. 64; Thompson v. Hickey (Sp. T.), 8 Abb. N. C. 159.

See § 13, last paragraph.]

§ 50. Application of proceeds of sales of lots.—At least one-half of the proceeds of the sales of the use of all lots and plats shall be applied to the payment of the purchase-money of the real property acquired by the corporation until such purchase-money is paid, and the residue thereof shall be applied to preserving, improving and embellishing the cemetery grounds and the avenues and roads leading thereto, and to defraying the incidental expenses and liabilities of the corporation. After the payment of such purchase-money, and the expense of surveying and laying out the cemetery, the proceeds of all sales of the use of lots and plats thereafter shall be applied only to the improvement, preservation and embellishment of such cemetery and the incidental expenses of the corporation. Such corporation may agree with a person from whom any lands are purchased for a cemetery, to pay therefor a specified share not exceeding one-half of the proceeds of all sales of the use of lots and plats made from such land, and such share shall be first applied to the payment of such purchase-money, and the residue thereof shall be applied to the preservation, improvement, and embellishment of the cemetery, and the incidental expenses of the corporation. Where lands have been so purchased, and are to be paid for as provided by this section, the prices of the use of lots and plats fixed by the directors and in force when such purchase was made, shall not be changed, while the purchase-price remains unpaid, without the written consent

of a majority in interest of the persons from whom the lands were purchased, their heirs, representatives or assigns.

[L. 1847, ch. 133, § 7; R. S., 8th ed., 1937
Without change of substance.]

§ 51 **Burials and removals.**—The remains of a widow may be buried in a burial lot of which her husband died possessed and in which his heirs continue to have an estate or right of burial, without the consent of any person whomsoever claiming any interest in such lot. The remains of the wife, husband, parent or child of a person who has a burial lot or estate therein or right of burial therein, may be interred in such lot without the consent of any person whomsoever claiming any interest in such lot. Subject however, in all cases to the following rules and exceptions :

1. The place of interment in such lot shall be subject to the reasonable determination of the cemetery corporation or association or their officers or agent having immediate charge of interments. This act shall not permit the remains of a person not otherwise entitled to burial, to be interred in any ground or place contrary to or in violation of the precepts, regulations or rules or usage of any church or other religious society, association or corporation.

2. Any husband or wife living separate from the other and having a burial lot in which the other (but for this act) would have no right of burial in such lot, and not desiring the remains of the other to be interred therein, may file a written objection to such interment with the cemetery corporation or association and if so filed at least thirty days before the death of the other, no right of interment shall be claimed or had under the foregoing section.

3. A parent or child having a burial lot in which the other would have no right of burial but for this act, and not desiring the remains of the other to be interred therein, may file a written objection to such interment with the cemetery corporation or association, and if so filed at least thirty days before the death of the other, no right of interment shall be claimed or had by such other under this section; provided, that in such case, if the parent or child so excluded from burial in such lot, should die without having any place of interment provided, then the parent or child filing such objection shall at once furnish for the other a place of burial in some convenient cemetery; for the reasonable cost of which the estate of the deceased, if any, shall be responsible to the person furnishing such grave.

4. This section does not limit any existing rights of burial under other provisions of law. Nothing in this act contained, shall limit or curtail the right of alienation by the owner of a burial lot, under the rules of the cemetery corporation or association wherein such lot is situated, before the death of the person for whose remains the right of burial is provided herein, and no right of burial shall accrue to any person by reason of this act in any burial lot sold by its owner, before the death of the person for whose remains the right of burial is provided herein. If there be more than one lot owner of a lot in a cemetery of a cemetery corporation no body of a dead person shall be buried therein without the consent of all the owners of such lot, unless such person, at the time of his death, was an owner of the lot, or a relative, wife or husband of an owner, or a relative of such wife or husband. A dead body lawfully buried in a lot in such a cemetery may be removed therefrom, with the consent of the corporation, and a written consent of the owners of such lot, and of the surviving wife, husband, children, if of full age, and parents of the deceased. If the consent of any such person can not be obtained, or if the corporation refuses its consent, the consent of the county court of the county or the supreme court, at a special term, held in the district, where the cemetery is situated, shall be sufficient. Notice of the application for the consent of the court must be given, at least eight days prior thereto, personally, or, at least, sixteen days prior thereto, by mail, to the corporation or to the person not consenting, and to every other person on whom service of notice may be required by the court,

[Am'd by ch. 715 of 1900. In effect May, 1, 1900]
[L. 1847, ch. 133, § 11; R. S., 8th ed., 1938.
Without change in substance. See Went v. Methodist Prot. Church, 80 Hun, 266.]

Laws 1854, ch. 238.

§ 3. **Supervisors may regulate burials.**—The board of supervisors of each of said counties is authorized to make, from time to time, such regulations as the mode of burials in any cemetery within their bounds as they shall judge the public health or public decency to require, and it shall not be lawful to disobey such regulations.

§ 52. **Taxation of lot owners by corporations.**—If the funds of a cemetery corporation, applicable to the improvement and care of its cemetery wholly outside of a city of the first or second class, or applicable to the construction of a receiving vault therein for the common use of lot owners, be insufficient for such purposes, the directors of the corporation, not oftener than once in any year and for such purposes only, may levy a tax of two dollars on the owners of each lot, or, with the written consent of two-thirds of the lot owners, or with the concurrent vote of a majority of the lot owners, at an annual meeting, or at a special meeting duly called for such purpose, may levy a tax on the lot owners at a rate not exceeding five dollars for each lot of average value proportionately to the prices at which the lots were respectively sold by the corporation. Notice of such tax shall be served on the lot owners or where two or more persons are owners of the same lot, on one of them, either personally, or by leaving it at his residence, with a person of mature age and discretion, or by mail, if he resides in a city, town or village where the office of the corporation is not located. If such tax remain unpaid for more than thirty days after the service of such notice, the president and secretary of the corporation may issue a warrant to the treasurer of the corporation, requiring him to collect such tax in the same manner as school collectors are required to collect school taxes; and such treasurer shall have the same power and be subject to the same liabilities in executing such warrant as a collector of school taxes has or is subject to by law in executing a warrant for the collection of school taxes. If the taxes so levied remain unpaid for five years, the amount thereof with interest shall be a lien on the unused portion of the lot which is subject to such tax and no portion of the lot so taxed shall be used by the owner thereof for burial purposes, while any such tax remains unpaid.

[Am'd by ch. 761 of 1900. In effect May 4, 1900.]

[L. 1868, ch. 402, §§ 1-3; R. S., 8th ed., 1940.

The present law provides for the collection of taxes by the school district collector of the district in which the cemetery is situated, and if he refuses to act, allows the trustees of the corporation to appoint a person to collect the same. The duty properly belongs to the treasurer of the corporation as provided by this section. The change will greatly simplify the procedure.

The provision requiring the notice to be given to lot-owners is new.]

§ 53. Expenses of improving vacated lot.— Whenever a person having a lot in the cemetery of a cemetery corporation shall vacate the same by a removal of all the dead buried therein, and leave such lot in a broken and unimproved condition for a period of one month or more from the date of such removal, the corporation may grade, cut, fill or otherwise change the surface thereof,

for the improvement of the lot and the general improvement of the cemetery grounds, without reducing the area of the lot. The expense of such improvement, not exceeding ten dollars, shall be chargeable to such lot. If the owners of such lot shall not, within six months after such expense has been incurred, repay to the corporation the amount chargeable to the lot, the corporation may sell the lot at public auction upon the cemetery grounds, previous notice of such sale having been posted at the main entrance of the cemetery, and mailed to the owners of such lot at their last-known post-office address, at least ten days prior to the day of sale, and shall pay the surplus, if any, of the proceeds of such sale over such amount, on demand, to the owners of such lot.

[L. 1871, ch. 378, §§ 1-2; R. S., 8th ed., 1942.
Without change of substance.]

§ 54. Certificates of indebtedness.—If a cemetery corporation be indebted for lands purchased for cemetery purposes, or for services rendered or materials furnished in preserving or improving its cemetery, the directors thereof, by the concurring vote of a majority of their whole number, may, with the consent of the creditor to whom any such indebtedness is owing, issue certificates under the corporate seal, signed by the president and secretary, for the amount of such indebtedness, or a part thereof, payable at such times and drawing such a rate of interest and in such sums as may be agreed on with such creditor; but the amount of any certificate shall not be less than one hundred dollars, nor the rate of interest higher than the rate authorized by law. The certificate shall be transferable by delivery, unless otherwise provided on the face thereof; and the directors shall keep in the books of the corporation an exact and true account of the number and amount of such certificates, the persons to whom issued, the time of maturity and the rate of interest. A separate account shall be kept in the books of the corporation of the certificates issued for the purchase-money of lands, and the certificates issued for debts incurred in preserving and improving the cemetery. The directors shall set aside from the proceeds of sales of the use of lots and plats, such sums as they may deem

necessary to pay said certificates at their maturity. Until such certificates are paid each holder thereof shall be entitled at all meetings of the corporation, to one vote for each one hundred dollars of such indebtedness held by him. The certificates issued pursuant to this section shall not be a lien upon any lot belonging to a lot owner.

[L. 1860, ch. 163, §§ 1-4; R. S., 8th ed., 1939.
L. 1884, ch. 433.
By L. 1860, ch. 163, § 2, indebtedness can be funded by a vote of all the trustees, changed in this section to a vote of a majority.
The statute of limitations runs against the certificates from the time a sufficient sum is collected from the sale of lots to pay them. Thatcher v. H. C. Assn., 126 N. Y. 507.]

§ 55. Certificates of stock heretofore issued.— If a cemetery corporation, incorporated under a law repealed by this chapter, has converted its outstanding indebtedness or certificates of indebtedness into certificates of stock, in pursuance of law, no interest shall accrue to the holders of such stock, but they shall receive annually or semi-annually a dividend thereon for their proportional part of the entire surplus or net receipts of the corporation over and above current expenses; or if the proportion of the net receipts or surplus which stockholders shall be entitled to receive shall have been fixed by agreement at the time of issuing such stock, such stockholders shall be entitled to receive dividends in accordance with such agreement. Such certificates of stock shall be transferable only on the books of the corporation on the surrender of the certificate, unless otherwise provided on the face thereof, and on every such surrender a new certificate of stock shall be issued to the person to whom the same has been transferred; and the holders of such stock shall be entitled, in person or by proxy, to one vote for every share thereof, at each meeting of the corporation. A register of the stock issued by the corporation shall be kept by its directors showing the date of issue, the number of shares, the par value thereof, the name of each person to whom issued, the number of the certificates therefor; and all transfers of such stock shall be noted and entered in such register, and the certificates sur-

rendered shall be deemed canceled by the issue of a new certificate, and the surrendered certificate shall be destroyed. Any director may become the holder or transferee of such stock for his own individual use or benefit. No such stock shall be a lien on the lot of any individual lot owner within the cemetery limits; and no other or greater liability of the corporation issuing such stock shall be created or deemed to exist than may be necessary to enforce the faithful application of the surplus or net receipts of the corporation to and among the holders of the stock in the manner hereinbefore specified.

A cemetery which has heretofore issued such certificates of stock is a membership corporation and not a stock corporation.

[L. 1879, ch. 107, §§ 1-4; R. S., 8th ed., 1943.
L. 1894, ch. 267.
Without change of substance as to certificates of stock heretofore issued. The power to issue certificates of stock hereafter is repealed and not re-enacted.
See reviser's note (ante) in explanation of the change in the law.]

§ 56. Private cemetery corporations.— Seven or more persons may become a private cemetery corporation by setting off for a private cemetery inclosed real property, to the extent of not more than three acres, and by electing at a meeting of the proprietors of the real property so set off, at which not less than seven shall be present, three of their number to be directors, to hold office for five years. The chairman and secretary of such meeting shall make, sign and acknowledge, and file in the office of the clerk of the county in which such real property is situated, a certificate containing the name of the corporation, a description of the lands so purchased or set apart, and the names of the directors. No such cemetery shall be located within one hundred rods of any dwelling-house without the written consent of the owner thereof.

Additional lands may be acquired by a private cemetery corporation to an extent not to exceed three acres; but no additional lands so purchased or otherwise acquired shall be used for the purpose of burial within three hundred feet of any dwelling without the written consent of the owner thereof.

[See Form, No. 13.
L. 1854, ch. 112, §§ 1-4, 6, 10; R. S., 8th ed., 1945.
Without change of substance.

[The provision of L. 1854, ch. 112, in regard to filling vacancies in office of director, is omitted here. The by-laws may provide therefor.]

§ 57. **Family cemetery corporations.**—Any person may, by deed or devise, dedicate land to be used exclusively for a family cemetery, or the executors, administrators or trustees of a deceased person may, with the written authority of all the surviving heirs, next of kin, devisees and legatees of the deceased person, executed in person or by attorney, or if infants, by general guardian, dedicate lands of such deceased person to be used exclusively for such purpose, or purchase with the funds of the estate under their control, suitable lands therefor, and may pay to the directors of such cemetery money or other personal property as hereafter provided. The quantity of land so dedicated shall not exceed three acres, nor be located within one hundred rods of a dwelling house, without the consent of the owner unless the land so dedicated shall, at the time of such dedication be already in actual use for burial or cemetery purposes within the limits of a city. The instrument dedicating such land shall describe the same, may appoint directors to manage such cemetery may prescribe or provide for making the rules, directions or by-laws, for such management, may direct the manner of choosing successors to the directors, may fix or provide for their qualifications, and may grant to such directors and their successors money or personal property to be a fund for maintaining, improving and embellishing such cemetery, in accordance with the deed or will of such person, or the written authority of such heirs, next of kin, devisees and legatees. The instrument dedicating land for a family cemetery, together with the authority, if any, of the heirs, next of kin, devisees and legatees of a deceased person, shall be filed in the office of the county clerk, of each county in which such cemetery is to be situated. A fund created by will for the purpose of maintaining, improving and embellishing such a cemetery shall not exceed ten per centum of the clear value of the estate of the testator in excess of his debts and liabilities, other than legacies. The directors shall, before entering on their duties, file in the office of the clerk of each county, in which such cemetery is situated, a written acceptance of their appointment; and thereon such directors and their successors shall be a corporation by the name expressed in the instrument dedicating such land. Such directors and their successors, before receiving any property, money or funds for improving, maintaining and embellishing the cemetery under their charge, shall execute to

the surrogate of the county in which such real property is situated a bond with sureties approved by him, in a penalty of twice the principal sum of the fund placed in their charge, conditioned for the faithful preservation and application thereof, according to the rules, directions or by-laws, prescribed in the instrument under which their appointment was made, and renew their bond or execute a new bond whenever required so to do by such surrogate. At least once in each year, and oftener if required by the surrogate, they shall file with him their account of receipts and expenditures, on account of the fund in their hands, together with vouchers for all disbursements.

Amended by ch. 390 of 1901. In effect April 17, 1901.

[L. 1854, ch. 112, §§ 7-9; R. S., 8th ed., 1946-7. Without change of substance.]

§ 61. **Lot owners in unincorporated cemeteries may determine upon incorporating under this article.**—Not less than three owners of lots in an unincorporated cemetery may cause a notice to be posted in at least six conspicuous places in the city, town or village in which such cemetery is located, and published once in each week for three successive weeks in a newspaper, if any, published in such municipality, stating that at a time and place specified in such notice, a meeting of the owners of lots in such cemetery shall be held to determine upon the question of incorporating such cemetery, pursuant to article three of the membership corporations law.

[New] [Added by chap. 480 of 1900. In effect April 17, 1900.]

§ 62. **Meeting to determine such question.**—Such meeting shall be held at a convenient place in the city, town or village in which such cemetery is located, not less than twenty-five nor more than thirty days after the first posting and publication of the notice of the meeting. At such meeting every owner of a lot in such

cemetery, represented thereat in person or by proxy, shall be entitled to one vote, for each lot owned by him. Any owner of a lot in such cemetery may by written proxy, duly acknowledged, designate a person to represent him at such meeting, and the person so designated shall upon the presentation of such proxy to the chairman of the meeting, have all the powers of a lot owner present thereat. The persons entitled to vote at such meeting shall select a chairman and secretary thereof, and shall determine by ballot the question of whether or not the owners of lots in such cemetery shall organize as a corporation pursuant to article three of the membership corporation law. The ballots in favor of such proposition shall have the word "yes" thereon, and the ballots against shall have the word "no" thereon.

[New] [Added by chap. 480 of 1900. In effect April 17, 1900.]

§ 63. **Incorporation pursuant to meeting, conveyance of property to corporation.**—If a majority of the ballots are in favor of such proposition, the persons entitled to vote at such meeting shall select three owners of lots in such cemetery to incorporate in pursuance of article three of the membership corporations law, and the provision of such article shall be applicable to the formation and management of such corporation, except that three persons may incorporate, and the corporation shall not be required to have more than three directors. Upon the formation of such corporation in pursuance of such article, the owners of lots in such cemetery shall be members of the corporation, and the corporation shall become vested with the title to such unincorporated cemetery and the personal property connected therewith, subject to all the provisions of law, in relation to cemetery corporations. If, however, the title to such cemetery has prior to such incorporation vested in the town, pursuant to section

one hundred and ninety-five of the town law, or section one of title seven of chapter eleven of part one of the revised statutes, the supervisor of such town shall on request of the directors of such corporation, execute to such corporation a deed of such cemetery lands releasing all interest of the town therein, and thereafter the title of such cemetery shall be vested in the corporation.

[New] [Added by chap. 480 of 1900. In effect April 17, 1900.]

PROVISIONS OF THE PENAL CODE.

CHAPTER VI.

Violating Sepulture and the Remains of the Dead.

Section 305. Right to direct disposal of one's body after death.
306. Duty of burial.
307. Burial in other states.
308. Dissection, when allowed.
309. Unlawful dissection a misdemeanor.
310. Remains after dissection must be buried.
311. Body stealing.
312. Recovering stolen body.
313. Opening grave.
314. Arresting or attaching a dead body.
315. Disturbing funerals.

§ 305 Right to direct disposal of one's body after death.—A person has the right to direct the manner in which his body shall be disposed of after his death; and also to direct the manner in which any part of his body, which becomes separated therefrom during his lifetime, shall be disposed of; and the provisions of this chapter do not apply to any case where a

person has given directions for the disposal of his body or any part thereof inconsistent with those provisions.

Rowland v. Miller, 39 N. Y. State Rep. 117; 15 N. Y. Supp. 703.

§ 306. **Duty of burial.**—Except in cases in which a right to dissect it is expressly conferred by law, every dead body of a human being, lying within this state must be decently buried within a reasonable time after death.

Rowland v. Miller, 39 N. Y. State Rep. 117; N. Y. Supp. 703; Johnston v. Marinus, 18 Abb. N. C. 72; Windt v. German Ref. Ch., 4 Sandf. Ch. 471; Snyder v. Snyder, 60 How. 368; Patterson v. Patterson, 59 N. Y. 583; Copper's case, 58 How. 55; Rosseau v. City of Troy, 49 id. 492; Matter of Beekman street, 4 Bradf. 503.

§ 307. **Burial in other states.**—The last section does not impair any right to carry the dead body of a human being through this state, or to remove from this state the body of a person dying within it, for the purpose of burying the same elsewhere.

§ 308. **Dissection, when allowed.**—The right to dissect the dead body of a human being exists in the following cases:

1. In cases prescribed by special statutes.

2. Whenever a coroner is authorized by law to hold an inquest upon the body, so far as such coroner authorizes dissection for the purposes of the inquest, and no further.

3. Whenever and so far as the husband, wife or next of kin of the deceased, being charged by law with the duty of burial, may authorize dissection for the purpose of ascertaining the cause of death, and no further.

4. Whenever any district attorney in this state, in the discharge of his official duties, shall deem it necessary, he may exhume, take possession of, and remove the body of a deceased person, or any portion thereof, and submit the same to a proper physical or chemical examination, or analysis, to ascertain the cause of death, and the same shall be made on the order of any justice of the supreme court of this state, or county judge of the county in which such dead body shall be, which order shall be made on the application of the district attorney with or without

notice to the relatives of the deceased person, or to any person or corporation having the legal charge of such body, as the court may direct. Said district attorney shall have power to direct the sheriff, constable or other peace officer in this state, or to employ such person or persons as he may deem necessary to assist him in exhuming, removing, obtaining possession of and examining physically or chemically such dead body or any portion thereof. The expense therefor shall be a county charge, to be paid by the county treasurer on the certificate of the district attorney. (Amended by chapter 500 of 1889.)

People v. Fitzgerald, 105 N. Y. 152; 5 N. Y. Cr. 335; rev'g, 43 Hun, 35; Crisfield v. Perine, 15 id. 202; aff'd, 81 N. Y. 622.

§ 309. **Unlawful dissection a misdemeanor.**—A person who makes, or causes or procures to be made, any dissection of the body of a human being, except by authority of law, or in pursuance of a permission given by the deceased, is guilty of a misdemeanor.

§ 310. **Remains after dissection must be buried.**—In all cases in which a dissection has been made, the provisions of this chapter, requiring the burial of a dead body, and punishing interference with or injuries to it, apply equally to the remains of the body dissected, as soon as the lawful purposes of such dissection have been accomplished.

§ 311. **Body stealing.**—Any person who removes the dead body of a human being, or any part thereof, from a grave, vault, or other place, where the same has been buried, or from a place where the same has been deposited while awaiting burial, without authority of law, with intent to sell the same, or for the purpose of dissection, or for the purpose of procuring a reward for the return of the same, or from malice or wantonness, is punishable by imprisonment for not more than five years, or by a fine not exceeding one thousand dollars, or both.

[What constitutes. Tate v. State, 6 Blackf. 110; Rhodes v. Brandt, 21 Hun, 1; People v. Fitzgerald, 105 N. Y. 151; 5 N. Y. Cr. 335.

§ 312. **Receiving stolen body.**—A person who purchases, or receives, except for the purpose of burial, the dead body of a

human being, or any part thereof, knowing that the same has been removed contrary to the last section, is punishable by imprisonment for not more than three years.

§ 313. Opening grave.—A person who opens a grave or other place of interment, temporary or otherwise, or a building wherein the dead body of a human being is deposited while awaiting burial, without authority of law, with intent to remove the body, or any part thereof, for the purpose of selling it or demanding money for the same, or for the purpose of dissection, or from malice or wantonness, or with the intent to steal or remove the coffin or any part thereof, or anything attached thereto, or any vestment or other article interred, or intended to be interred with the dead body, is punishable by imprisonment for not more than two years, or by a fine of not more than two hundred and fifty dollars, or by both.

Rhodes v. Brandt, 21 Hun, 1; Coates v. New York City, 7 Cow. 585.

§ 314. Arresting or attaching a dead body.—A person who arrests or attaches the dead body of a human being upon any debt or demand whatever, or detains or claims to detain it, for any debt or demand, or upon any pretended lien or charge, is guilty of a misdemeanor.

Rowland v. Miller, 39 N. Y. State Rep'r. 117; 15 N. Y. Supp. 703.

§ 315. Disturbing funerals.—A person who, without authority of law, obstructs or detains any persons engaged in carrying or accompanying the dead body of a human being to a place of burial, is guilty of a misdemeanor.

ARTICLE IV.

Fire Corporations.

Section 65. Certificate of incorporation.
66. Powers.

§ 65. Certificate of incorporation.—Ten or more persons may become a fire, hose, protective or hook and ladder corporation by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be formed; the name

of the proposed corporation; the city, village or town in which it proposes to act; the number of directors; and the names and places of residence of the persons to be directors until its first annual meeting.

Such certificate shall not be filed without the approval indorsed thereupon, or annexed thereto, of a justice of the supreme court, nor unless there is annexed thereto a certified copy of a resolution of the board of trustees of the village, or the approval of the mayor of the city, or, if not within a village or city, a resolution of the town board of the town in which the corporation proposes to act, consenting to its incorporation.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

[See Form, No. 14.

L. 1873, ch. 397, §§ 1, 2; R. S., 8th ed., 2055, as am. by L. 1890, ch. 27; R. S., 8th ed. (Supp.), 3300.

Without change of substance.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 66. **Powers.**—A fire, hose, protective or a hook and ladder corporation, incorporated under this article or under a law repealed by this chapter, shall only engage in such business as properly belongs to a fire, hose, protective or hook and ladder corporation, in the city, village or town named in its certificate. In participating in the prevention and extinguishment of fires, such corporation shall be under the control of the city or village authorities having by law control over the prevention or extinguishment of fires therein.

[L. 1873, ch. 397, § 2; R. S., 8th ed., 2056.

Without change of substance.]

Laws 1873, ch. 397.

§ 5. **May take property by devise, etc.**—Any corporation formed under this act may take, hold or receive any property, real or personal, by virtue of any devise or bequest contained in

any last will and testament; provided, that no person leaving a wife, child or parent shall devise or bequeath to such corporation more than one-fourth of his or her estate, after payment of all debts existing against said estate, and such devise or bequest shall be valid to the extent of such one-fourth only.

§ 11. Exemption from taxation.—The members of any fire company organized under the provisions of this act, and situated within any incorporated village, may be exempted from taxation to the amount of five hundred dollars on any village assessment for village purposes, and from highway poll-tax in addition to the exemptions now enumerated by law, and the real and personal property of any such company may be exempted from like village taxation, provided that at any general election or at any special election called for that purpose, a majority of the legal voters of such village shall vote in favor thereof, and at any such election the vote shall be by ballot, and the ballots shall be indorsed "for" or "against exemption from taxation of the members of the fire company," and a similar ballot indorsed "for" or "against the exemption of the real and personal property of the fire company." Such election shall be held in the same manner and by the same officers as at a general election in said village. (Thus amended by L. 1879, ch. 250.)

[These sections were not repealed.]

ARTICLE V.

Corporations for the Prevention of Cruelty.

Section 70. Certificate of incorporation.
71. Prohibition of new corporations in certain counties.
72. Special powers.

§ 70. Certificate of incorporation.—Five or more persons may become a corporation for the prevention of cruelty to children, or the prevention of cruelty to animals, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed; the name of the proposed corporation; the county in which its operations are to be conducted; the town, village or city in which

its principal office is to be located; the number of its directors not less than five nor more than thirty; the names and places of residence of the persons to be its directors until its first annual meeting; and the time for holding such annual meeting. Such certificate shall not be filed unless the written consent and approbation thereof of a justice of the supreme court of the judicial district in which the place of business or principal office of such corporation shall be located, be first indorsed thereon; nor unless there is annexed thereto the written certificate of the New York Society for the Prevention of Cruelty to Children, if such be the object specified, and of the American Society for the Prevention of Cruelty to Animals, if such be the object so specified, approving such incorporation. If the approval of either of such societies is not given within thirty days after application therefor, the persons proposing to form such corporation may apply to such justice for his approval upon eight days' notice of the time and place of application to the society refusing approval, which shall be entitled to appear and be heard, and the granting or refusal of the approval by the justice shall thereupon be discretionary with him. On filing such certificate in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate.

[See form, No. 15.

L. 1875, ch. 130, §§ 1-2; R. S., 8th ed., 1931.

L. 1888, ch. 490, §§ 1-2; R. S., 8th ed., 1933, as am. by

L. 1891, ch. 291; R. S., 8th ed. (Supp.), 3291.

L. 1894, ch. 105.

The provision requiring the certificate to be approved by the New York Society for the Prevention of Cruelty to Children, and the American Society for the Prevention of Cruelty to Animals, is new; but is guarded by an application to the court, if such approval is refused.

The general qualification of incorporators, the naming of the corporation, the place of filing, and other general regulations applicable to certificates of incorporation are provided in general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 71. **Prohibition of new corporations in certain counties.**— A corporation for the prevention of cruelty to animals shall not hereafter be incorporated for the purpose of conducting its opera-

tions in the counties of New York, Kings, Queens, Richmond, Suffolk, Westchester or Rensselaer, or in any other county if thereby there would be two or more such corporations formed for the purpose of conducting operations in such county.

Am'd by ch. 469 of 1896. Took effect May 9, 1896.

[L. 1888, ch. 490, § 1; R. S., 8th ed., 1932, as am. by L. 1892, ch. 291; R. S., 8th ed. (Supp.), 3291. Without change of substance.]

§ 72. Special powers.— A corporation formed for the purpose of preventing cruelty to children may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting children, and may aid in presenting the law and facts to such court, tribunal or magistrate in any proceeding therein.

A corporation formed for the purpose of preventing cruelty to animals may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting the prevention of cruelty to animals, and may aid in presenting the law and facts to such court, tribunal or magistrate in any proceeding therein.

A corporation for the prevention of cruelty to children may be appointed guardian of the person of a minor child during its minority by a court of record, or a judge thereof, and may receive and retain any child at its own expense on commitment by a court or magistrate.

All magistrates and peace officers shall aid such a corporation, its officers, agents and members in the enforcement of laws relating to or affecting children, and for the prevention of cruelty to animals.

[L. 1875, ch. 130, §§ 4; R. S., 8th ed., 1932.
L. 1888, ch. 490, § 4; R. S., 8th ed., 1933.

The first paragraph, relating to societies for the prevention of cruelty to children only, is extended in the second paragraph to societies for the prevention of cruelty to animals.

A society for prevention of cruelty to children may prefer a complaint under § 899, Code Crim. Pro., declaring one who neglects to provide for his child according to his means, a disorderly person. People v. Strickland (City Ct. of Yonkers), 13 Abb. N. C. 473.

As to right of society for prevention of cruelty to receive fines, see Yonkers Soc. v. Yonkers, 44 Hun, 338.]

Laws 1888, ch. 490, part of § 4.

But no officer or agent of any society so incorporated shall exercise any powers or functions conferred by section six hundred and sixty-eight of the Penal Code until he shall have been first duly authorized in writing by the sheriff of the county wherein the same are to be exercised; and any such authorization may be revoked or annulled by said sheriff or by any justice of the supreme court in his discretion.

[This portion of L. 1888, ch. 490, § 4, was not repealed.

See Am. Society for Prevention of Cruelty to Animals v. Cohoes, 4 St. Rep. 808.]

SECTION OF PENAL CODE RELATING TO CRUELTY TO CHILDREN.

CHAPTER III.

Abandonment and Other Acts of Cruelty to Children.

Section 287. Abandonment of child under six years of age.
288. Unlawfully omitting to provide for child.
289. Endangering life, health or morals of child.
290. Keepers of concert saloons, etc.
290a. Boarding infants without license.
291. Children not to beg, etc.
292. Certain employment of a child.
292a. Penalty for sending messenger boys to certain places.
292b. Taking apprentices without consent of guardian.
293. Duties of officers of society.

§ 287. Abandonment of child under six years.—A parent, or other person having the care or custody, for nurture or education, of a child under the age of six years, who deserts the child in any place, with intent wholly to abandon it, is punishable by imprisonment in a state prison, for not more than seven years. (Amended, ch. 325 of 1892. In effect September 1, 1892.)

See People, ex rel. Douglas, v. Naehr, 30 Hun, 461; Bayne v. People, 14 id. 181.

§ 288. Omitting to provide for child.—A person who,

1. Willfully omits, without lawful excuse, to perform a duty by law imposed upon him to furnish food, clothing, shelter or medical attendance to a minor, or to make such payment towards

its maintenance as may have been required by the order of a court or magistrate, when such minor has been committed to an institution; or,

2. Not being a superintendent of the poor, or a superintendent of almshouses, or an institution duly incorporated for the purpose, without having first obtained a license in writing so to do from the board of health of the city or town wherein such females or children are received, boarded or kept, erects, conducts, establishes or maintains any maternity hospital, lying-in asylum, where females may be received, cared for or treated during pregnancy or during or after delivery; or receives, boards or keeps any nursing children, or any children under the age of twelve years not his relatives, apprentices, pupils or wards without legal commitment; or,

3. Being a midwife, nurse or other person having the care of an infant within the age of two weeks, neglects or omits to report immediately to the health officer or to a legally qualified practitioner of medicine of the city, town or place where such child is being cared for, the fact that one or both eyes of such infant are inflamed or reddened whenever such shall be the case, or who applies any remedy therefor without the advice, or except by the direction of such officer or physician; or,

4. Neglects, refuses or omits to comply with any provisions of this section, or who violates the provisions of such license, is guilty of a misdemeanor. Every such license must specify the name and residence of the person so undertaking the care of such females or children, and the place and the number of females or children thereby allowed to be received, boarded and kept therein, and shall be revokable at will by the authority granting it. Every person so licensed must keep a register wherein he shall enter the names and ages of all such children and of all children born on said premises, and the names and residence of their parents, as far as known, the time of the reception and discharge of such children and the reasons therefor, and also a correct register of the name and age of every child under the age of five years who is given out, adopted, taken away or indentured from such place to or by any one, together with the name and residence of the person so adopting, taking or indenturing such

child; and shall cause a correct copy of such register to be sent to the authority issuing such license within forty-eight hours after such child is so given out, adopted, taken away or indentured. It shall be lawful for the officers of any incorporated society for the prevention of cruelty to children and such board of health at all reasonable times to enter and inspect the premises wherein such females and children are so boarded, received or kept, and also such license, register and the children. (Amended, chaps. 46 of 1884, 31 of 1886, 145 of 1888, 325 of 1892. In effect September 1, 1892.)

5. No institution shall be incorporated for any of the purposes mentioned in this section, except with the written consent and approbation of a justice of the supreme court, upon the certificate in writing of the state board of charities, approving of the organization and incorporation of such institution. The said board of charities may apply to the supreme court for the cancellation of any certificate of incorporation previously filed without its approval, and may institute and maintain an action in such court through the attorney-general to procure a judgment dissolving such corporation not so incorporated and forfeiting its corporate rights, privileges and franchises. (Subd. 5 added 1894, ch. 171.)

Fursman v. Van Sise, 56 N. Y. 435, 444; Crowley v. People, 21 Hun, 415; 83 N. Y. 464; Cromwell v. Benjamin, 41 Barb. 558 People v. McDonald, 49 Hun, 69.

§ 289. **Endangering life, etc., of child.**—A person who,

1. Willfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved; or,

2. Willfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired, is guilty of a misdemeanor. (Amended, ch. 145 of 1888.)

[Who is custodian. Officer of benevolent institution. Cowley v. People, 11 W. Dig. 516; 83 N. Y. 464.]

§ 290. Permitting children to attend certain resorts.—A person who,

1. Admits to or allows to remain in any dance-house, concert saloon, theatre, museum, skating rink, or in any place where wines or spirituous or malt liquors are sold or given away, or in any place of entertainment injurious to health or morals, owned, kept or managed by him in whole or in part, any child actually or apparently under the age of sixteen years, unless accompanied by its parent or guardian; or,

2. Suffers or permits any such child to play any game of skill or chance in any such place, or in any place adjacent thereto, or to be or remain therein, or admits or allows to remain in any reputed house of prostitution or assignation, or in any place where opium or any preparation thereof is smoked, any child actually or apparently under the age of sixteen years; or,

3. Sells or gives away, or causes or permits or procures to be sold or given away to any child actually or apparently under the age of sixteen years, any beer, ale, wine, or any strong or spirituous liquors; or,

4. Being a pawnbroker or person in the employ of a pawnbroker, makes any loan or advance or permits to be loaned or advanced to any child actually or apparently under the age of sixteen years, any money, or in any manner, directly or indirectly, receives any goods, chattels, wares or merchandise from any such child in pledge for loans made or to be made to it or to any other person or otherwise howsoever; or,

5. Sells, pays for or furnishes any cigar, cigarette or tobacco in any of its forms to any child actually or apparently under the age of sixteen years;

Is guilty of a misdemeanor. (Amended, chaps. 46 of 1884, 31 of 1886, and 170 of 1889.)

7. No child actually or apparently under sixteen years of ago shall smoke or in any way use any cigar, cigarette or tobacco in any form whatsoever in any public street, place or resort. A violation of this subdivision shall be a misdemeanor and shall be punished by a fine of not less than two dollars for each offense. (Added by, ch. 417 of 1890.)

§ 291. Children not to beg.—Any child actually or apparently under the age of sixteen years who is found:

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or,

2. Not having any home or other place of abode or proper guardianship; or who has been abandoned or improperly exposed or neglected by its parents or other person or persons having it in charge, or being in a state of want or suffering; or,

3. Destitute of means of support, being an orphan, or living or having lived with or in custody of a parent or guardian who has been sentenced to imprisonment for crime or who has been convicted of a crime against the person of such child, or has been adjudged an habitual criminal; or,

4. Frequenting or being in the company of reputed thieves or prostitutes, or in a reputed house of prostitution or assignation, or living in such a house either with or without its parent or guardian, or being in concert saloons, dance-houses, theaters, museums or other places of entertainment, or place where wines, malt or spirituous liquors are sold, without being in charge of its parent or guardian; or playing any game of chance or skill in any place wherein or adjacent to which any beer, ale, wine or liquor is sold or given away, or being in any such place; or,

5. Coming with any of the descriptions of children mentioned in section two hundred and ninety-two, must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions. Whenever any child shall be committed to an institution under this code, and the warrant of commitment shall so state, and it shall appear therefrom that either parent, or any guardian or custodian of such child was present at the examination before such

court or magistrate, or had such notice thereof as was by such court or magistrate deemed and adjudged sufficient, no further or other notice required by any local or special statute, in regard to the committal of children to such institution, shall be necessary, and such commitment shall in all respects be sufficient to authorize such institution to receive and retain such child in its custody as therein directed. Whenever any commitment of a child shall for any reason be adjudged or found defective, a new commitment of the child may be made or directed by the court or magistrate, as the welfare of the child may require. And no commitment of a child which shall recite therein the facts upon which it is based, shall be deemed invalid by reason of any omission of the court or magistrate by whom such commitment is made to file any documents, papers or proceedings relating thereto, or by reason of any limitation as to the age of the child committed, contained in the act or articles of incorporation of the institution to which it may have been committed. (Amended, chaps. 31 of 1886, 145 of 1888.)

6. Any magistrate having criminal jurisdiction may commit, temporarily, to an institution authorized by law to receive children on final commitment, and to have compensation therefor from the city or county authorities, any child under the age of sixteen years, who is held for trial on a criminal charge; and may, in like manner, so commit any such child held as a witness to appear on the trial of any criminal case; which institution shall thereupon receive the same, and be entitled to the like compensation proportionally therefor as on final commitment, but subject to the order of the court as to the time of detention and discharge of the child. Any such child convicted of any misdemeanor shall be finally committed to some such institution, and not to any prison or jail, or penitentiary, longer than is necessary for its transfer thereto. No child under restraint or conviction, actually or apparently under the age of sixteen years, shall be placed in any prison or place of confinement, or in any court-room or in any vehicle for transportation in company with adults charged with or convicted of crime. (Amended, ch. 46 of 1884.)

7. All cases involving the commitment or trial of children for any violation of the Penal Code, in any police court or court of special sessions, may be heard and determined by such court, at suitable times to be designated therefor by it, separate and apart from the trial of other criminal cases, of which session a separate docket and record shall be kept. And all such cases and cases of offense by, or against the person of, a child under the age of sixteen years shall have preference over all other cases before all magistrates and in all courts and tribunals in this state both civil and criminal; and where a child is committed or detained as a witness in any case, such case shall be brought to trial or otherwise disposed of without delay, whether the defendant be in custody or enlarged on bail. Am'd by ch. 414 of 1896.

§ 292. **Certain employments of child prohibited.**—A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who, having the care, custody or control of such child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting, either

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or,

2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or,

3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or,

4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child, is guilty of a misdemeanor. But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the

president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours' previous notice of the application shall have been served in writing upon the society mentioned in section two hundred and ninety-three of the Penal Code, if there be one within the county, and a hearing had thereon if requested, and shall be revokable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section. (Amended, ch. 46 of 1884, ch. 31 of 1886, ch. 309 of 1892.)

Ryan v. Buchanan, 37 Hun, 425; Society, etc., v. Diers, 10 Abb. (N. S.) 216; Matter of Donohue, 1 Abb. N. C. 1; Matter of Corinne, Daily Reg., Dec. 16, 1881; People ex rel. Mt. M. School, v. Dickson, 57 Hun, 314; 32 N. Y. State Rep'r, 496.

§ 292a. **Penalty for sending messenger boys to certain places.**—A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spirituous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or,

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold on any errand or business whatsoever except to deliver telegrams at the door of such house, is guilty of a misdemeanor, and incurs a penalty of fifty dollars, to be recovered by the district attorney. (Amended by ch. 692 of 1893.)

§ 292b. **Taking apprentices without consent of guardian.**—A person who takes an apprentice without having first obtained

the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor. (Added by ch. 692 of 1893.)

§ 293. Duty of officers of society.—A constable or police officer must, and any agent or officer of any incorporated society for the prevention of cruelty to children may, arrest and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of this chapter, and any minor coming within any of the descriptions of children mentioned in section two hundred and ninety-one, or in section two hundred and ninety-two. Such constable, police officer or agent may interfere to prevent the perpetration in his presence of any act forbidden by this chapter. A person who obstructs or interferes with any officer or agent of such society in the exercise of his authority under this chapter is guilty of a misdemeanor. All fines, penalties and forfeitures imposed or collected for a violation of the provisions of this Code, or of any act relating to or affecting children, now in force or hereafter passed, must be paid on demand to the incorporated society for the prevention of cruelty to children in every case where the prosecution shall be instituted or conducted by such society; and any such payment heretofore made to any such society may be retained by it. (Amended, ch. 145 of 1888.)

See Code Cr. Proc., § 56; People, ex rel. N. Y. S. P. C. C., v. Gilmour, 88 N. Y. 626; Davis Society, etc., 16 Abb. (N. S.) 73; People v. Strickland, 13 Abb. N. C. 473; Matter of Corinne, Daily Reg., Dec. 16, 1881.

SECTIONS OF THE PENAL CODE RELATING TO CRUELTY TO ANIMALS.

TITLE XVI.

Cruelty to Animals.

Section 655. Overdriving animal; failing to provide proper sustenance.
656. Abandonment of disabled animal.
657. Failure to provide proper food and drink to impounded animal.
658. Selling or offering to sell or exposing disabled animal.
659. Carrying animal in a cruel manner, a misdemeanor.

Section 660. Animal wantonly poisoned, or attempted to be poisoned, a misdemeanor.
661. Throwing substance injurious to animals in public place, a misdemeanor.
662. Keeping milch cows in unhealthy places and feeding them with food producing unwholesome milk, a misdemeanor.
663. Transporting animals for more than twenty-four consecutive hours, a misdemeanor.
664. Setting on foot fights between birds and animals, a misdemeanor.
665. Keeping, etc., a place where animals are fought, a misdemeanor.
666. Running horses on highway, a misdemeanor.
667. Leaving state to elude provisions of this title.
668. Fines and penalties to be paid over to a society.
669. Definitions.

§ 655. Overdriving animal; failing to provide proper sustenance.— A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor.

§ 656. [Amended 1888.] **Abandonment of disabled animal.**— A person being the owner or possessor, or having charge or custody of a maimed, diseased, disabled or infirm animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows it to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor. Any agent or officer of the American Society for the Prevention of Cruelty to Animals, or of any society duly incorporated for that purpose, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing in the judgment of two

reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent of said society may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver the same into the possesison of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

§ 657. **Failure to provide proper food and drink to impounded animal.**— A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor.

§ 658. **Selling or offering to sell or exposing disabled animal.** — A person who willfully sells or offers to sell, uses, exposes or causes or permits to be sold, offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the life or health of human beings, or animals, or which is diseased past recovery, or who refuses upon demand to deprive of life an animal affected with any such disease, is guilty of a misdemeanor.

Fisher v. Clark, 41 Barb. 329.

§ 659. **Carrying animal in a cruel manner, a misdemeanor.**— A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

§ 660. **Animal wantonly poisoned, or attempted to be poisoned, a misdemeanor.**— A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or another, is guilty of a misdemeanor.

§ 661. **Throwing substance injurious to animals in public place, a misdemeanor.**—A person who willfully throws, drops or places, or causes to be thrown, dropped or placed, upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal, is guilty of a misdemeanor.

25 Abb. N. C. 40; 15 N. Y. St. Rep. 939.

§ 662. **Keeping milch cows in unhealthy places and feeding them with food producing unwholesome milk, a misdemeanor.**—A person who keeps a cow or any animal for the production of milk, in a crowded or unhealthy place, or in a diseased condition, or feeds such cow or animal upon any food that produces impure or unwholesome milk, is punishable by a fine not less than fifty dollars, or imprisonment not exceeding one year, or by both.

§ 663. **Transporting animals for more than twenty-four consecutive hours, a misdemeanor.**—A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee, or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee, and shall have a lien thereon for such expense.

25 N. Y. St. Rep. 250; 6 N. Y. Supp. 837.

§ 664. **Setting on foot fights between birds and animals, a misdemeanor.**—A person who sets on foot, instigates, promotes,

or carries on, or does any act as assistant, umpire, or principal, or is a witness of, or in any way aids in or engages in the furtherance of any fight between cocks or other birds, or dogs, bulls bears, or other animals, premeditated by any person owning, or having custody of such birds or animals, is guilty of a misdemeanor punishable by fine not less than ten dollars, nor more than one thousand dollars, or by imprisonment not less than ten days nor more than one year, or both.

§ 665. [Amended 1888.] **Keeping, etc., a place where animals are fought, a misdemeanor.**— A person who keeps or uses, or is in any manner connected with, or interested in the management of, or receives money for the admission of any person to, a house, apartment, pit or place kept or used for baiting, or fighting any bird or animal, and any owner or occupant of a house, apartment, pit or place who willfully procures or permits the same to be used or occupied for such baiting or fighting, is guilty of a misdemeanor. Upon complaint, under oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

48 Hun, 275.

§ 666. **Running horses on highway, a misdemeanor.**— A person driving any vehicle upon any plank road, turnpike or public highway, who unjustifiably runs the horses drawing the same, or causes, or permits them to run, is guilty of a misdemeanor.

§ 667. Leaving state to elude provisions of this title.—A person who leaves this state with intent to elude any of the provisions of this title, or to commit any act out of this state which is prohibited by them, or who, being a resident of this

state, does any act without this state, pursuant to such intent, which would be punishable under such provisions, if committed within this state, is punishable in the same manner as if such act had been committed within this state.

§ 668. [Amended 1888.] Fines and penalties, to whom paid.—All fines, penalties or forfeitures imposed or collected for a violation of the provisions of this title, or of any act for the prevention of cruelty to animals, now in force or hereafter passed, must be paid on demand to the American Society for the Prevention of Cruelty to Animals; except where the prosecution shall be instituted or conducted by a society for the prevention of cruelty to animals duly incorporated under the general laws of this state, in which case such fine, penalty or forfeiture must be paid on demand to such society. A constable or police officer must, and any agent or officer of any of said societies may, arrest and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of this title. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct any such officer or agent in the discharge of his duty shall be guilty of a misdemeanor. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals, and may aid in presenting the law and facts before such court, tribunal, or magistrate in any proceeding taken. The officers and agents of all duly incorporated societies for the prevention of cruelty to animals or children are hereby declared to be peace officers within the provisions of section one hundred and fifty-four of the Code of Criminal Procedure.

15 Abb. Pr. (N. S.) 59; 4 N. Y. St. Rep. 808.

§ 669. Definitions.—1. The word "animal" as used in this title, does not include the human race, but includes every other living creature.

2. The word "torture" or "cruelty" includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

48 Hun, 275; 145 Mass. 300.
Sub. 3; 101 N. Y. 634; 41 Hun, 23.

ARTICLE VI.

Hospital Corporations.

Section 80. Certificate of incorporation.

§ 80. Certificate of incorporation.— Five or more persons may become a corporation for the purpose of erecting, establishing or maintaining a hospital, infirmary, dispensary, or home for invalids, aged or indigent persons, by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be formed; the name of the proposed corporation; the town, village or city in which its principal office is to be located; the number of directors, not less than three nor more than forty-eight; the names and places of residence of the persons to be its directors until its first annual meeting, and the time for holding its annual meetings. Such certificate may also specify the qualification of members of the corporation with respect to their adherence or non-adherence to a particular school or theory of medical or surgical treatment; and the systems of medical practice or treatment to be used or applied in such hospitals, infirmary, dispensary or home. Such certificate shall not be filed without the written approval endorsed thereupon, or annexed thereto, of the state board of charities and of the justice of the supreme court of the district in which the principal office or place of business of such corporation shall be located. On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation, in accordance with the provisions of such certificate.

[Am'd by chap. 404 of 1900. In effect April 12, 1900.]

[See Form, No. 16.

L. 1889, ch. 95, § 1; R. S., 8th ed. (Supp.), 3353
L. 1894, ch. 256.

Without change of substance, except that the minimum number of incorporators is changed from eleven to five, and the number of directors is to be expressly fixed by the certificate.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation, are provided by general corp. law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

Laws 1889, ch. 95.

§ 4. The property of said corporation, both real and personal, shall be exempt from taxation, to the extent that, and so long as, the same shall be used exclusively for the care, reception, maintenance, medical and surgical advice, aid and treatment of persons needing such medical and surgical advice, aid and treatment, or the care and maintenance of infirm, aged, and indigent persons, and provided that it shall and do actually render medical and surgical aid, advice and treatment to poor persons in need of such treatment, without charge therefor, or care for and maintain infirm, aged and indigent persons without charge.

[This section of the law of 1889, relating to hospital corporations is not repealed.]

ARTICLE VII.

Christian Associations.

SECTION 90 Certificate of incorporation.
91. Directors and trustees
92. Dissolution.
93. Young Men's Christian Association; directors.

§ 90. **Certificate of incorporation.**—Twenty or more men may become a young men's Christian association, and twenty or more women may become a young women's Christian association, for the purposes of improving the spiritual, mental, social and physical condition of young men, or of young women, as the case may be, by making, acknowledging and filing a certificate stating the particular objects for which the corporation is to be formed; which objects in the case of young men's Christian associations shall conform to the general rules and regulations of the state executive committee of the young men's Christian associations of this state; the name of the proposed corporation; the town, village or city in which its principal office is to be located; the number of directors, not less than three nor more than thirty; the names and places of residence of the persons to be its directors, until the first annual meeting; the times for holding its annual meetings; and the names of six trustees, each of whom shall be a member of some Protestant evangelical denomination and not more than two of whom shall be members of any one

denomination, to hold office until their successors are elected, as provided by the by-laws. Such certificate shall not be filed without the approval of a justice of the supreme court indorsed thereupon or annexed thereto. On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate, but no person shall be eligible to membership of such a corporation unless he have the same qualifications as the persons authorized to sign the certificate of incorporation thereof.

[Am'd by chap. 541 of 1900. In effect April 19, 1900.]

[See Form No. 17.

L. 1887, ch. 501, §§ 1, 2, 4; R. S., 8th ed., 1933, as am. by
L. 1890, ch. 104; R. S., 8th ed. (Supp.), 3292.
L. 1861, ch. 167, §§ 1, 2; R. S., 8th ed. (Supp.), 3499.
Without change of substance as to Y. M. C. A.

The number of trustees of Y. W. C. A. changed from five to six. The provision that not more than two of the trustees shall be of the same denomination is new as to Y. W. C. A corporations.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corp. law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 91. **Directors and trustees.**—The trustees of such a corporation, with the president of the corporation, shall be a board of trustees thereof, and hold and control the real property of the corporation and all gifts and bequests of money to be held in trust. They shall pay the income of such property to the treasurer of the corporation so long as the income shall be expended by the directors thereof for the purposes for which it was formed.

The real property of such corporation shall not be liable for any debt or obligation contracted without the approval of the board of trustees.

In all proceedings for the purchase, sale, mortgage, and lease of real property, the board of trustees of such a corporation shall act as the board of directors thereof.

The directors of such corporation shall have the management and control of its property and affairs, except as such management and control is given by law to the board of trustees thereof.

[L. 1887, ch. 501, §§ 4, 5, 6; R. S., 8th ed., 1934.
L. 1889, ch. 33; R. S., 8th ed. (Supp.), 3293.
L. 1891, ch. 167, § 6; R. S., 8th ed. (Supp.), 3500.
Consolidated without change of substance.]

Young Men's Christian Associations.

L. 1883, chapter 241—An act to incorporate the International Committee of Young Men's Christian Associations.

L. 1886, chapter 137—An act to incorporate the State Executive Committee of the Young Men s Christian Associations of the State of New York.

[The two foregoing acts are referred to by title only.]

§ 92. **Dissolution.**—Whenever any association formed under the provisions of this article shall cease to carry out the objects set forth in its certificate of incorporation, according to the general rules and regulations of the state executive committee of young men's Christian associations of this state, or shall abandon the use of any of its property for such objects, then upon the application of a majority of the managers or directors of such association upon fourteen days' notice to said state executive committee by service thereof upon its chairman and secretary or in the event of their failure to act, upon the application of the said state executive committee of young men's Christian associations of the state of New York, by petition signed by a majority of the members of the state executive committee and verified by its chairman, to be made upon fourteen days' notice to be given to such association by service thereof upon its president, or any director or manager thereof and upon one of the trustees thereof, and upon notice to the attorney-general of the state of New York, the supreme court, upon satisfactory proof of the fact of such failure or abandonment, must make a final order dissolving such corporation, and upon the entry thereof, the corporation shall be dissolved, and upon such dissolution the court may appoint one or more persons as receiver or receivers of the property of such corporation.

Added by chap. 541 of 1900 In effect April 19, 1900

§ 93. **Young Men's Christian Association; directors.**—It shall be lawful for any Young Men's Christian Association incorporated prior to the taking effect of chapter five hundred and one of the laws of eighteen hundred and eighty-seven, entitled "An act for the incorporation of Young Men's Christian Associations," at any annual meeting or any special meeting called as provided by the by-laws of said association, to elect additional directors so that the total number of its directors shall not be more than thirty, and in addition to said directors to elect six trustees, each of whom shall be a member of some Protestant evangelical denomination, and not more than two of whom shall be members of any one denomination, to hold office until their successors are elected, as provided by the by-laws. The trustees so elected, and their successors, shall be a board of trustees thereof and hold and control the real property of the corporation and all gifts and bequests of money to be held in trust. They shall pay the income of such property to the treasurer of the corporation so long as the income shall be expended by the directors

thereof for the purposes for which it was formed. The real property of such corporation shall not be liable for any debt or obligation contracted after the creation of such board of trustees without the approval of said board of trustees. In all proceedings for the purchase, sale, mortgage, and lease of real property, the board of trustees of such corporation shall act as the board of directors thereof. After the creation of said board of trustees the directors of such corporation shall have the management and control of its property and affairs, except as such management and control is given by law to the board of trustees thereof.

Amended by ch. 469 of 1901. In effect April 23, 1901.

ARTICLE VIII.
Bar Association.

Section 100. Certificate of incorporation.

§ 100. Certificate of incorporation.— Nine or more attorneys or counselors of the supreme court of this state, in active practice, and residing or having their offices in the same county, may become a bar association for the purposes of cultivating the science of jurisprudence, promoting reforms in the law, facilitating the administration of justice, elevating the standard of integrity, honor and courtesy in the legal profession, and cherishing the spirit of brotherhood among the members thereof, by making, acknowledging and filing a certificate stating the particular objects for which the corporation is to be formed; the name of the proposed corporation; the county in which its operations are to be conducted; the town, village or city in which its principal office is to be located; the number of its directors, not less than three nor more than thirty; the names and places of residence of the persons to be its directors until the first annual meeting; and the times for holding its annual meetings.

Such certificates shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in

accordance with the provisions of such certificate, but no person shall be eligible to membership of such a corporation unless he have the same qualifications as the persons authorized to sign the certificate of incorporation thereof.

[See form, No. 18.

L. 1887, ch. 317, § 1; R. S., 8th ed., 2031.

Without change of substance.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note note to § 30.]

ARTICLE IX.

Veteran Soldiers and Sailors' Associations.

Section 110. Certificate of incorporation.
111. Shares.
112. Property.

§ 110. Certificates of incorporation.—Twenty-five or more honorably discharged soldiers or sailors of the union army or navy, or the male descendants of such soldiers or sailors, may become a corporation for social, literary, patriotic, charitable and historical purposes, by making, acknowledging and filing a certificate stating the particular object for which the corporation is to be created, the name of the proposed corporation; the town, village or city in which its principal office is to be located; the names of fifteen persons to be its directors until the first annual meeting, and the times for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate; but no person shall be eligible to membership of such corporation unless he have the same qualifications as the persons authorized to sign the certificate of incorporation thereof.

[See form, No. 19.

L. 1890, ch. 118, §§ 1-2; R. S., 8th ed. (Supp.), 3412.

Without change of substance.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 111. Shares.— The by-laws of such a corporation may provide that the property of the corporation shall be divided into transferable shares of one hundred dollars each, entitling the holder thereof to one vote for each share, at all meetings of the corporation. Each shareholder shall be liable to the amount unpaid on the shares held by him, for the debts and liabilities of the corporation; but shall not be entitled to receive any interest or dividends thereon. Such a corporation shall be a membership corporation and not a stock corporation.

[L. 1890, ch. 118, § 3; R. S., 8th ed. (Supp.), 3414.
Without change of substance.]

§ 112. Property.— All sums over the necessary expenses of such corporation and over and above the amount necessary to discharge the principal and interest on any mortgage or bond issued by it shall be held by the directors as a fund for the purchase of memorials, preservation of relics and historical evidences and trophies, and for charity to union veterans, their families or descendants.

[L. 1890, ch. 118, § 2; R. S., 8th ed. (Supp.), 3414.
Re-enacts a part of § 2, without change of substance.]

ARTICLE X.

Soldiers' Monument Corporations.

Section 120. Certificate of incorporation.
121. Property.
122. Improvement taxes.

§ 120. Certificate of incorporation.— Three or more persons may become a corporation for the purpose of erecting a monument, monuments, or memorial, including a memorial hall or building, to perpetuate the memory of the soldiers and sailors who served in defense of the union in the late war, by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be created; the name of the proposed corpora-

tion; the number of its directors, not less than six nor more than twelve; the names and places of residence of the persons to be directors until the first annual meeting; and the time for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors shall be a corporation in accordance with the provisions of such certificate.

See form, No. 20.

[L. 1866, ch. 273, §§ 1, 3, 8; R. S., 8th ed., 2058.

Without change of substance.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 121. **Property; erection of monuments.**—Such a corporation may acquire and hold, within the county in which its certificate of incorporation is recorded, not more than five acres of land, to be used exclusively for the erection of a suitable monument or monuments or other memorial, to perpetuate the memory of the soldiers and sailors who served in the defense of the union in the war of the rebellion, or who served in the army or navy of the United States in the late war with Spain from the town, city or county, in which such monument, monuments or memorials is erected. Such a corporation may erect any such monument, monuments or memorial, upon any public street, square or ground of any town, city or village, with the consent of the proper officers thereof, or may purchase or accept the donation of land suitable for that purpose; and may take and hold the property given, devised or bequeathed to it in trust, to apply the same or the income or proceeds thereof for the erection, improvement, embellishment, preservation, repair or renewal of such monument, monuments or memorials, or of any structures, fences or walks upon its land, or for planting and cultivating trees, shrubs, flowers or plants, in and around or upon its lands, or for improving or embellishing the same in any manner consistent with the design and purposes of the association according to the terms of such grant, devise or bequest. It may take by gift or purchase any lots or lands, in any cemetery within such county, to be used and occupied exclusively for the burial of honorably discharged soldiers and sailors who served in either of such wars and for the erection of suitable monuments or memorials therein. A town clerk or the board of trustees of a village shall, upon the petition of twenty-five resident taxpayers, submit to an annual town meeting or village election, as the case may be, a proposition to raise by taxation a sum stated therein, not exceeding five hundred dollars in any one year, for the purpose of

erecting such a monument, or contributing to the expense of such a monument erected by a corporation under this section, or for repairing or improving the same and the grounds thereof; and such tax shall be levied in the manner prescribed by law for levying general taxes in such town or village; and when raised shall be applied to the purposes specified in such proposition.

Am'd by ch. 207 of 1899.

**[L. 1886, ch. 273, §§ 4, 7; R. S., 8th ed., 2059.
Without change of substance.]**

§ 122. Improvement taxes.— A tax may be levied and collected on the taxable property in a town, village or city in which such monument, monuments or other memorial may be erected, for the purpose of repairing or improving the same and the grounds thereof; and such tax shall be levied in the manner prescribed by law for levying general taxes in such town, village or city.

**[L. 1866, ch. 272, § 6; R. S., 8th ed., 2060.
Without change in substance.]**

Laws 1866, ch. 272.

§ 5. Property exempt from taxation, etc. — The property of any association formed pursuant to this act, shall be exempt from levy and sale on execution, and from all public taxes, rates and assessments, and no street, road, avenue or thoroughfare shall be laid through the lands of such association held for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the legislature of the state. (Thus amended by L. 1888, ch. 299.)

[This section of the law relating to soldiers' monument associations has not been repealed.]

§ 123. Any unincorporated association which shall have been organized solely for the purpose of raising funds to be devoted to the erection of a monument or memorial to perpetuate the memory of the soldiers and sailors who served in the defense of the union in the late war, may by a majority vote of all its members who shall be present and voting at a meeting thereof, called as in this section provided, transfer to and vest in any

incorporated association which shall have been organized under a general statute, or under the foregoing sections of this article for the sole purpose of erecting a like monument or memorial in the same town or village where such unincorporated association is located, any or all money which it shall have accumulated for such object, except as hereinafter provided, provided that such transfer does not conflict with any provision of the constitution or by-laws of such association, and that it shall be made and the money so transferred shall be accepted by such incorporated association in trust to apply the same, or the income thereof, exclusively for the purposes mentioned in section one hundred and twenty-one of this article. Any member of such unincorporated association who shall have contributed individually to the fund so raised, and paid such contribution into the treasury of such association, the same appearing upon the books of the treasurer, shall be entitled to demand and receive the amount of such contribution from the treasurer of such association, in case such transfer shall be made and before the same shall be consummated upon filing with the president or secretary of such unincorporated association his or her affidavit to the effect that he or she has not approved of such transfer by vote or otherwise. No vote upon the question of transferring the funds of such unincorporated association as hereinbefore provided for shall be had or taken except at a meeting of such association especially called for that purpose by the president or secretary or other managing officer thereof, upon notice given at least ten days before the time fixed for such meeting, personally or by mail to each member of such association whose residence or post-office address is known, which notice shall state the object of the meeting to be the consideration of making such transfer pursuant to this section.

[Added, ch. 327 of 1897. Took effect April 23, 1897.]

ARTICLE XI.

Boards of Trade.

Section 130. Certificate of incorporation.

131. Boards of trade heretofore incorporated, which have issued capital stock.

§ 130. Certificate of incorporation.—Five or more persons may form a corporation commonly called a board of trade or exchange, or a building exchange or association, for the purpose of foster-

ing trade and commerce, or the interests of those having a common trade, business, financial or professional interest, to reform abuses relative thereto, to secure freedom from unjust or unlawful exactions, to diffuse accurate and reliable information as to the standing of merchants and other matters, to procure uniformity and certainty in the customs and usages of trade and commerce, and of those having a common trade, business, financial or professional interest; to settle differences between its members, and to promote a more enlarged and friendly intercourse between business men, by making, acknowledging and filing a certificate, stating the particular object for which the corporation is to be created; the name of the proposed corporation; the town, village or city in which its principal office is to be situated; the number of its directors, not less than five; the names and places of residence of the persons to be its directors, until its first annual meeting; and the times for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon, or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

[See form, No. 21.

L. 1877, ch. 228, §§ 1, 2, 7; R. S., 8th ed. 2057.

This act of 1877 authorizes the formation of boards of trade with or without capital stock. If the corporation desires capital stock it will hereafter be necessary to incorporate under the business corporation law, instead of this chapter.

The provision of L. 1877, ch. 288, § 1, restricting the existence of the corporation to fifty years, is omitted.

The provision of L. 1877, ch. 228, § 12, that twelve or more persons may form a board of trade corporation, is changed to five or more. The restrictive language of L. 1877, ch. 228, § 1, that persons "engaged in the business of erecting buildings or the furnishing of materials therefor," may form a board of trade corporation, is changed to persons "having a common trade, business, financial or professional interest."

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 131. Boards of trade heretofore incorporated, which have issued capital stock.—A board of trade, heretofore incorporated, under a law repealed by this chapter which has issued capital stock, entitling the holders of the shares thereof to dividends from the profits of the corporation, shall hereafter be subject to the provisions of the business corporation law, the stock corporation law and the general corporation law, and not to the provisions of this chapter.

[New.]

ARTICLE XII.

Agricultural and Horticultural Corporations.

Section 140. Certificate of incorporation.
141. Restrictions on the formation of corporations.
142. Annual fairs and premiums.
143. Police and magistrates on exhibition grounds.
144. Capital stock.
145. Annual report.
146. Membership in state society.
146a. Exhibitions and entertainments on fair grounds to be exempt from license.
147. Laws repealed.
148. When to take effect.

§ 140. Certificate of incorporation.—Ten or more persons may form a county or town agricultural corporation for promoting agriculture, horticulture and the mechanic arts, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be created; the territory in which its operations are to be conducted; the town, village or city in which its principal office is to be located; the number of its directors, not less than six or more than twelve; the names of the persons to be its directors until its first annual meeting; and the times for holding its annual meetings.

Such certificate shall not be filed without the approval, indorsed thereupon or annexed thereto, of a justice of the supreme court.

On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate.

[See form, No. 22.

L. 1855, ch. 425, §§ 1, 2; R. S., 8th ed., 2015, as am. by

L. 1891, ch. 10; R. S., 8th ed. (Supp.), 3297.

Without change of substance.

The general qualification of incorporators, the naming of the corporation, the place of filing and other general regulations applicable to certificates of incorporation are provided by general corporation law, §§ 3-9. As to who may take acknowledgments, see statutory construction law, § 15. See note to § 30.]

§ 141. **Restrictions on the formation of corporations.**—There shall be but one county society in a county, and but one town society in a town. Whenever a new county shall be or shall have been erected out of a part of an existing county in which a county society existed at the time of the erection of such new county, such existing society may at its option be continued as the joint society of the new and the old county and its rights and liabilities shall be the same as if the new county had not been erected. The determination of an existing society to be continued as a joint society for such counties shall be evidenced by a certificate thereof, signed and acknowledged by a majority of the directors, and filed in the office of the secretary of state and in the clerk's office of each of such counties. A joint society may be formed for two, three or four towns, but the formation of such society shall not prevent the formation of separate town societies for such towns.

Am'd by ch. 104 of 1899.

§ 142. **Annual fairs and premiums.**—Every such corporation, the American Institute in the city of New York, and the New York State Agricultural Society, shall hold annual fairs and exhibitions, and distribute premiums. Such a county or town corporation may, by a two-thirds vote of the members present and voting at a regular meeting, or at a special meeting, duly called for that purpose, fix the place where the annual fair and exhibition of the corporation shall be held. Such corporations and societies shall regulate and award premiums on such articles, productions and improvements as they deem best calculated to promote the agricultural and house hold manufacturing interests of the state, having special reference to the net profits which accrue or are likely to accrue from the mode of raising the crop or stock, or fabricating the article exhibi-

ted, so that the award be given to the most economical or profitable mode of production.

Am'd by ch. 476 of 1896. Took effect May 9, 1896.

[L. 1855, ch. 425, §§ 5, 10; R. S., 8th ed., 2016.
L. 1841, ch. 169, § 3; R. S., 8th ed., 2018.
L. 1848, ch. 299, § 3; R. S., 8th ed., 2020.
Consolidated without change in substance, except that the provision of § 10, that notice of a meeting to determine the question shall be published for four weeks, is omitted. The corporation can fix this by its by-laws.]

§ 143. **Police and magistrates on exhibition grounds.**—The board of directors of any such corporation, or the executive committee of such board, may appoint a chief of police and as many citizens of this state as may be necessary to act as policemen at their exhibitions. The chief of police may also while acting as such appoint such additional policemen as he may deem advisable. Such chief of police and policemen shall preserve order within and for a space of two hundred yards from and around the grounds of the corporation, protect the property within such grounds and space, and eject all persons improperly therein, or acting disorderly therein, or who neglect or refuse to pay the entrance fee or observe the rules prescribed by the corporation. Any of such officers may arrest without a warrant, any person whom he has reasonable cause to believe has unlawfully and fraudulently entered the exhibition grounds of such corporation without paying the entrance fee therefor. They shall have the same power within such grounds and space, during the time such exhibition continues, and for twenty-four hours thereafter, that a constable has by law, in serving criminal process, making arrests and preserving the peace. No town or county shall be liable to pay any such policeman for services rendered under this section. Such corporations may regulate or prevent all kinds of theatrical, or circus, exhibitions and shows, huckstering and traffic in fruits, goods, wares and merchandise, of whatever description, and shall prevent all kinds of mountebank exhibitions or shows, for gain on the fair days and within a distance of two hundred yards of the fair grounds of such corporation, as it deems the same to obstruct or in any way interfere with the free and uninterrupted use of the highways around and approaching such fair grounds. A justice of the peace of the county in which such grounds are situated, may, while upon such grounds, hold a court of special sessions, having the same duties, powers and

jurisdictions over offenses committed upon such grounds and within two hundred yards of the boundaries thereof. as is had by a court of special sessions of a town of such county over offenses committed in the town. The fines and penalties received by a justice of the peace under this section shall, before the close of the fair or exhibition at which the same are received, be handed over by him to such society, for its use, together with a written report of his proceedings during such fair or exhibition. The report shall be in all respect the same as an annual account rendered for services in criminal proceedings by a justice of the peace of a town to the board of town auditors. The justice shall receive as compensation for his services under this section his legal fees to be paid by such society. The justice shall include in his annual report to the board the offenses committed and the proceedings had under this section, and the disposition made by him of fines and penalties collected. The justice shall enter in his regular criminal do ket the full proceedings of all matters coming before him under this section, stating each case separately; and the record of such proceedings shall be kept open for public inspection upon such grounds during such fair or exhibition.

[Am'd by chap. 333 of 1900. In effect April 6, 1900.]

[L. 1859, ch. 36, §§ 1, 8; R. S., 8th ed., 2017.
L. 1862, ch. 284; R. S., 8th ed., 2017.
L. 1893, ch. 602.
Consolidated without change in substance.]

§ 144. Capital stock.—Such a corporation may, by a majority vote of the members thereof present and voting at a regular or regularly called meeting, and by filing a certificate to that effect in the county clerk's office of the county where its certificate of incorporation is filed, fix the amount of capital stock which such corporation shall have, not more than forty thousand, nor less than five thousand dollars, divide the same into shares of not less than ten dollars each, and issue such shares at not less than the par value thereof, to raise money for the purposes for which the corporation was created. An agricultural corporation incorporated under this chapter or a law repealed hereby, which has issued or shall hereafter issue capital stock, entitling the holders of the shares thereof to dividends from the profits of the corporation, shall be subject to the business corporations law, the stock corporation law and the general corporation law, and not

to the provisions of this article in conflict therewith, nor to article one of this chapter.

[L. 1855, ch. 425, § 4; R. S., 8th ed., 2016.
Re-enacts a part of § 4 without change of substance; but when such a corporation becomes a stock corporation, it is made subject to the stock corporation and the business corporations law, instead of article one of this chapter or the inconsistent provisions of this article.]

§ 145. Annual report.—The directors of such a corporation, on or before February first in each year, shall make a verified report to the secretary of the New York State agricultural society of the transactions of the corporation for the preceding year, giving full details of the receipts and expenditures thereof, with a list of premiums awarded and to whom and for what awarded.

[L. 1855, ch. 425, § 9; R. S., 8th ed., 2017.
Without change of substance, except that the report is to be made by the directors instead of by the president, secretary and treasurer.

146. Membership in state society.—The presidents of the county agricultural association corporations, incorporated under this chapter, or under a law repealed thereby, or delegates to be chosen by such associations annually, shall be ex officio members of the New York State agricultural society.

[L. 1841, ch. 169, § 6; R. S., 8th ed., 2018
Without change of substance.]

146a. Exhibitions and entertainments on fair grounds to be exempt from license.—The provisions of any special or local law or municipal ordinance, requiring the payment of a license fee for exhibitions or entertainments, shall not apply to any exhibition or entertainment held on the grounds of a town or county fair association, if the association derives a pecuniary profit from such exhibition or entertainment by the lease of its grounds for such purpose, or otherwise.

Added by chap. 275 of 1903. In effect April 24, 1903.

LAWS APPLICABLE TO AGRICULTURAL SOCIETIES.

Laws 1855, ch. 425.

11. Former societies ratified.—All societies formed under chapter three hundred and thirty-nine of session laws, passed June eighth, eighteen hundred and fifty three, are hereby declared to be as valid as if formed under this act for the year eighteen hundred and fifty-five, and may reorganize under this law at any time.

Laws 1881, ch. 657.

§ 1. Associations of farmers may lease grounds, etc.; certificates of indebtedness.— Any association of farmers, residing in any neighborhood, town or county in this state, now, or hereafter to be organized, and acting under a constitution and by-laws adopted by themselves for their guidance, which shall be filed in the clerk's office of such town or county, and which are not inconsistent with the laws of this state, is hereby authorized to lease and maintain grounds and structures for the exhibition and sale of the products of their farms or their skill, and for the instruction and recreation of its members and visitors. Any such association shall have authority to let, for rent, locations on their leased grounds to shopmen and persons wishing to furnish suitable refreshments for victualing members and visitors; to license peddlers to sell on their grounds articles of merchandise, not forbidden to be sold by any law of this state without license from the state; and in the name of such association and upon the action and direction of its officers, to sue for and collect the stipulated sums for such rentals and licenses, and to enforce the observance of its rules and regulations by the several members of its association. And such association is hereby empowered to issue certificates of indebtedness in amounts of five dollars each, providing that the whole amount shall not exceed the sum of one thousand dollars, which they may sell at a price not below the par value thereof, for the purpose of raising money for the erection of buildings, or for such other improvements as may be deemed necessary by a majority of the members of such association.

§ 2. **Preservation of the peace at meetings.** — The county judge of any county in this state, wherein such a voluntary association of farmers may exist, is hereby authorized, upon the nomination of the presiding officer, or the executive committee of such association, to appoint any number of reputable persons, citizens of such neighborhood, town or county, as special policemen or constables, who shall have authority to preserve the peace at any meeting of such association on its grounds or in the neighborhood thereof; and to protect the property of such

association or of any of its members, visitors, lessees or licensees while on such grounds or on the way to or from such grounds. But such special policemen or constables shall have no authority, from such appointment, to act as policemen or constables, other than as herein authorized, except that they may arrest any person committing unlawful depredation on such grounds, or unlawfully injuring persons or property thereon, or on the way to or from such grounds, or otherwise committing breaches of the peace, any may take such persons so offending, when arrested, before some proper magistrate, to be dealt with according to law.

AGRICULTURAL LAW.

Laws 1893, ch. 338.

§ 88. **Receipts and apportionment of moneys for the promotion of agriculture.**—Money appropriated for the promotion of agriculture in this State, the distribution of which is not otherwise provided for by law shall be apportioned and distributed by the commissioner of agriculture among the various county agricultural societies and the American Institute in the city of New York as follows: One-half thereof shall be apportioned and distributed equally and the remainder in proportion to the actual premiums paid during the previous year by such societies and institute, exclusive of premiums paid for trials or tests of speed, skill or endurance of man or beast. All revenues collected by the State comptroller and yet undistributed from the tax collected from racing associations, pursuant to chapter one hundred and ninety-seven of the laws of eighteen hundred and ninety-four, shall constitute a fund which shall be disbursed on behalf of the State for prizes for improving the breed of cattle, sheep and horses at the various fairs throughout the State, as hereinafter prescribed. Twenty-five per centum of the funds so collected shall be disbursed by the commissioner of agriculture among the agricultural societies, clubs, or expositions of the State, which have not, previous to the passage of this act, received appropriations from the State as follows: One-third shall be

apportioned and distributed equally, and the remainder in proportion to annual premiums paid during the past year by such society. Such sum shall only be paid to societies which have held fairs annually during each of the three years next preceding the passage of this act, and which have paid at their annual meeting or fairs during such three years, not less than one thousand dollars in the aggregate as premiums for agriculture, mechanical and domestic products, exclusive of the premiums paid for trials or tests of speed, skill or endurance of man or beast, and which shall file a statement of the amounts actually paid as such premiums during the past year, duly verified by the president and treasurer, with the commissioner of agriculture and the comptroller on or before the first day of July, eighteen hundred and ninety-five. Seventy-five per centum of such funds shall be disbursed by the commissioner of agriculture among the various county agricultural societies throughout the State, and the American Institute, in the city of New York, as follows: One-half shall be apportioned and distributed equally, and the remainder in proportion to the actual premiums paid during the previous year by such societies and institute, exclusive of premiums paid for trials or tests of speed, skill or endurance of man or beast. If there is no county agricultural society in any county, or it is not in active operation as such, the money which the county society of such county would be entitled to receive under this article, shall be apportioned among and paid to the several town or other agricultural societies in such county according to the amount of premiums paid, provided such town societies sustain a public fair, with premium-list, which premium-list and reports of such town fairs shall be forwarded and made to the commissioner of agriculture. All revenues, which shall be received by the comptroller, and not distributed as heretofore provided, and all moneys received by him from the tax collected from racing associations pursuant to chapter one hundred and ninety-seven of the laws of eighteen hundred and ninety-four, or hereafter otherwise collected from racing associations, corporations or clubs, shall constitute a fund which shall be annually disbursed on behalf of the State for prizes for improving the breed of cattle,

sheep and horses at the various fairs throughout the State as hereinafter prescribed. Thirty per centum of the funds so collected shall be disbursed by the commissioner of agriculture among the agricultural societies, clubs or expositions of the State, which have not, previous to the passage of this act, received appropriations from the State, as follows: One-third shall be apportioned and distributed equally and the remainder in proportion to annual premiums paid during the previous year by such society. Such sums shall only be paid to societies which shall have held fairs annually during each of the three years next preceding the passage of this act, and which shall have paid at their annual meeting or fairs during such three years not less than one thousand dollars in the aggregate as premiums for agricultural, mechanical and domestic products, exclusive of the premiums paid for trials or tests of speed, skill or endurance of man or beast. Seventy per centum of such funds shall be disbursed by the commissioner of agriculture among the various county agricultural societies throughout the State, and the American Institute, in the city of New York, as follows: One-half shall be apportioned and distributed equally, and the remainder in proportion to the actual premiums paid during the previous years by such societies and institute, exclusive of premiums paid for trials or tests of speed, skill or endurance of man or beast. If there is no county agricultural society in the county, or it is not in active operation as such, the money which the county society of such county would be entitled to receive under this act, shall be apportioned among and paid to the several town or other agricultural societies in such county according to the amount of premiums paid, provided such town societies sustain a public fair, with premium-lists, and reports of such town fairs shall be forwarded and made to the commissioner of agriculture. All societies other than county agricultural societies shall hereafter on or before the first day of December in each year, file a statement in duplicate, duly verified by the president and treasurer, showing the amount of premiums paid at the last annual fair, exclusive of premiums paid for trials or test of speed, skill or endurance of man or beast, one of which

statements shall be filed in the office of the commissioner of agriculture and the other in the office of the comptroller, and no such society shall be hereafter entitled to receive such appropriations in any year in which the actual amount paid by it as such premiums is less than five hundred dollars. (Thus amended by L. 1895, ch. 820.)

Laws 1895, ch. 820.

§ 2. The sum of ninety-five thousand nine hundred and eighty dollars and fifty-four cents, being the sum collected from racing associations in pursuance of chapter four hundred and seventy-nine of the laws of eighteen hundred and eighty-seven, as amended by chapter one hundred and ninety-seven of the laws of eighteen hundred and ninety-four, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to be distributed in the manner provided by section eighty-eight of the agricultural law, as amended by this act, and in the proportion provided by this act for the distribution of moneys already collected and yet undistributed, as hereinbefore recited. Such moneys shall be payable by the treasurer on the warrant of the comptroller on the order of the commissioner of agriculture.

§ 89. Distribution of money appropriated for certain agricultural societies.—Whenever in any year there shall be appropriated the sum of twenty thousand dollars or more for the benefit of the several agricultural societies, clubs or expositions of the State, two thousand dollars of such amount shall be paid to every such society, club or exposition, which shall have held annual fairs or meetings during each of the three years next preceding such appropriation and which shall have paid at each of such annual fairs or meetings, during such three years, the sum of three thousand dollars as premiums for agricultural interests, exclusive of the premiums paid for trials or tests of speed, skill or endurance of man or beast. Such society, club or exposition shall annually before the first day of December in each year file in the office of the commissioner of agriculture, a statement, verified by its president and treasurer, showing the payment of such premiums, with the amount and object thereof, together with the name of the persons to whom they were paid. A similarly veri-

fied duplicate of such statement shall be filed in the office of the comptroller. There shall at the same time be filed in the office of the comptroller a written offer to the effect that such society, club or exposition will act as the agent of the State for the distribution and payment of the money so appropriated as premiums at its annual fair or meeting for the promotion of agricultural interests, together with a bond executed to the people of the State, signed in its name by the president and treasurer thereof, in such amount and with such sureties as the comptroller shall approve, conditioned for the faithful performance of its duties as such agent. Any such society, club or exposition receiving such sum of two thousand dollars as herein provided shall not receive any portion of the moneys collected from racing associations or moneys already appropriated for the benefit of county agricultural societies. (Thus amended by L. 1895, ch. 587.)

§ 90. Annual report to the commissioner of agriculture and state society.- - The president and treasurer of any agricultural society which receives any money of the state or acts as the agent of the state in the distribution of money of the state as premiums, shall annually before the fifteenth day of December, transmit to the commissioner of agriculture a detailed account of the expenditure or distribution of all such moneys as shall have come into their hands during the preceding year, and of such other moneys as they may have received from voluntary contributions for distribution as premiums, stating to whom, and for what purpose paid, with the vouchers therefor. The presidents of the several county societies and of the American institute shall annually transmit in the month of December, to the executive committee of the New York state agricultural society, all such reports or returns as they are required to demand from applicants, for premiums, together with an abstract of their proceedings during the year which shall be examined by such executive committee, and they shall condense, arrange and report the same, with a statement of their own proceedings to the legislature on or before the first day of March in each year.

§ 91. Lease of grounds of agricultural societies and corporations. — Any agricultural society or corporation, owning or pos-

sessing grounds in a county of this state having a population of more than three hundred thousand and less than six hundred thousand may lease such grounds for any lawful purpose except running races not inconsistent with the use thereof for the purposes of the society or corporation, for such time or times as said grounds may not be needed by any such agricultural society or corporation for its own purposes.

§ 147. Of the laws enumerated in the schedule hereto annexed that portion specified in the last column is repealed.

[As to the effect of repeal, see general corporation law, §§ 85, 86; statutory construction law, §§ 31-33.]

§ 148. When to take effect.—This chapter shall take effect on September first, eighteen hundred and ninety-five.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter.	Sections.
1796	43	All.
1825	19	All.
1841	169	3, 6.
1847	133	All, except § 10.
1848	299	3, 6.
1848	319	All, except § 5.
1849	273	All.
1851	358	All.
1852	280	1, 2.
1853	122	All.
1853	339	All.
1853	395	All.
1853	487	All.
1854	50	All.
1854	112	All, except § 11.
1855	425	All, except § 11.
1857	302	All.
1857	531	All.
1859	36	All.
1860	163	All.
1860	242	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections
1861	58	All.
1861	94	All.
1861	95	All.
1861	239	All.
1862	284	All.
1862	302	All.
1864	419	All.
1865	368	All, except § 6.
1865	668	All.
1866	273	All, except § 5.
1866	457	All.
1867	799	All.
1868	402	All.
1869	629	All.
1869	708	All.
1870	527	All.
1871	68	All.
1871	378	All.
1871	705	All.
1871	875	All.
1872	104	All.
1872	116	All.
1872	209	All.
1872	649	All.
1873	361	All.
1873	397	All, except §§ 5, 11.
1873	698	All.
1874	35	All.
1874	245	All.
1875	130	All.
1875	267	All, except § 7.
1875	419	All.
1875	343	All, except § 5.
1875	452	All.
1875	512	All.
1876	53	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1876	190	All.
1876	346	All.
1877	228	All.
1877	380	All.
1877	426	All.
1877	469	All.
1879	107	All.
1879	108	All.
1879	252	All.
1879	411	All.
1880	98	All.
1880	246	All.
1880	566	All.
1881	139	All.
1881	207	All.
1881	254	All.
1881	388	All.
1881	412	All.
1881	428	All.
1881	497	All.
1881	526	All.
1881	641	All.
1883	446	All.
1884	68	All.
1884	433	All.
1884	436	All.
1885	66	All.
1885	88	All.
1885	474	All.
1886	30	All.
1886	236	All, except § 7.
1886	333	All.
1886	666	All.
1887	313	All.
1887	317	All, except § 7.
1887	501	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1887	506	All.
1887	645	All.
1888	293	All, except last sentence of § 2.
1888	299	All, except subdivision 5 of § 1.
1888	391	All.
1888	415	All.
1888	484	All.
1888	490	1, 2, 3, and first sentence of § 4.
1888	536	All.
1889	33	All.
1889	95	All, except § 4.
1889	301	All.
1890	27	All.
1890	68	All.
1890	104	All.
1890	118	All.
1890	229	All.
1890	425	All.
1891	10	All.
1891	167	All.
1891	213	All.
1891	344	All.
1891	382	All.
1892	197	All.
1892	291	All.
1892	333	All.
1892	498	All.
1892	597	All.
1893	34	All.
1893	180	All.
1893	465	All.
1893	602	All.
1894	105	All.

Schedule of Laws Repealed — (Continued).

Laws of	Chapter.	Sections.
1894.....	139.....	All.
1894.....	256.....	All.
1894.....	267.....	All.
1894.....	325.....	All.
1894.....	332.....	All.
1894.....	709.....	All.

DISSOLUTION OF MEMBERSHIP CORPORATIONS.

All except libraries may be dissolved by the Attorney-General on application of the creditors, pursuant to §§ 1784 to 1796 of the Code of Civil Procedure; by the Attorney-General when directed by the Legislature, pursuant to §§ 1797 to 1803 of the Code of Civil Procedure; and voluntarily, pursuant to §§ 2419 to 2431 of the Code of Civil Procedure.

APPENDIX TO THE MEMBERSHIP CORPORATIONS LAW

CONTAINING THE

LAWS REPEALED THEREBY.

(Laws 1796, chap. 43, R. S., 8th ed., 2033.)

Whereas, a disposition for improvement in useful knowledge has manifested itself in various parts of this state, by associating for procuring and erecting social and public libraries: And whereas it is of the utmost importance to the public that the sources of information should be multiplied and institutions for that purpose encouraged and promoted:

Section 1. Be it therefore enacted by the people of the State of New York, represented in Senate and Assembly, That from and after the passing of this act, it shall and may be lawful for any number of persons, not less than twenty, in any county, town, village or neighborhood, who shall subscribe in the whole not less than forty pounds, and who shall by writing under their hands signify their consent and desire to associate themselves together for the purpose of procuring and erecting a public library, to assemble on the second Tuesday of the month in which they shall determine to meet at a place previously agreed on by a majority of the subscribers, to elect, nominate and appoint not less than five nor more than twelve of their number as trustees, to take charge of the moneys belonging to the corporation thereby erected, and to transact all affairs relative to the same.

§ 2. And be it further enacted, That the said election to be held as aforesaid shall be conducted in the following manner, to wit: That whenever two-thirds of the subscribers shall assemble at the time and place previously agreed on and appointed, they shall proceed to elect a chairman by ballot from among themselves who shall preside at such election, receive the votes of the subscribers and be the officer to return the names of those who by plurality of voices shall be elected to serve as trustees for the said corporation; that the said returning officer shall immediately after said election, certify under his hand and seal the names of the persons elected to serve as trustees for said library, in which certificate the style, name or title of the said corporation (which shall for ever thereafter be the style, name or title by which the said corporation shall be distinguished and known), shall be particu-

(Laws 1796, ch. 43; R. S., 8th ed., 2034.)

larly mentioned and described, which said certificate being first duly proved or acknowledged before the chancellor of this state, or one of the judges of the supreme court, or any one of the judges of the court of common pleas of the county for the time being, in the same manner in which deeds or other writings have usually been proved or acknowledged, shall be forthwith recorded by the clerk of the county for the time being, in a book to be kept by him for that purpose, for which he shall receive a fee of eight shillings and no more.

§ 3. And be it further enacted, That the persons so elected, returned and registered, shall be and hereby are declared to be trustees for said library, and their associates, and such other persons as shall from time to time become members of the corporation hereby authorized to be erected, shall be and hereby are ordained, constituted, appointed and declared to be one body corporate and politic, in fact and in name, by the name, style or title mentioned and described in the said certificate so to be recorded as aforesaid, and by that name shall have succession, and they and their successors shall and may forever thereafter by the same name be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended in all courts of common law or equity whatsoever, in all manner of actions, suits, causes, controversies, matters and things whatsoever, and that they and their successors shall have a common seal, and may break, alter and change the same at their discretion; and also, that the said trustees and their successors by the same name and title described in said certificates from the time of their election aforesaid shall be capable in law of purchasing, holding and conveying any estate, real or personal, for the use of the said corporation: Provided, Such real and personal estate so held shall not at any one time exceed the annual value of five hundred dollars, exclusive of the books and of the annual payments which shall be directed to be made by the members of the said corporation.

[Library corporations are not authorized to incorporate under this chapter, but future incorporations must be made by the regents in pursuance of the University Law (L. 1892, ch. 378). Library corporations heretofore incorporated under L. 1796, ch. 43, will be governed by the general provisions of this chapter applying to all membership corporations. The general powers of such corporations are superseded by § 11 of the Gen. Corp. L. The power to hold property is superseded by Gen. Corp. L., § 12, which authorizes such corporations to hold property of the value of $3,000,000, the clear annual income of which does not exceed $500,000.]

(Laws 1796, ch. 43; R. S., 8th ed., 2034.)

§ 4. And for the better execution of the aforementioned purposes, Be it further enacted, That forever hereafter there shall not be less than five nor more than twelve trustees for every library so incorporated as aforesaid, who shall hold their offices for one year, and until others be elected in their places, and shall manage the business of the said corporation; and that there shall forever hereafter be one chairman of the said trustees, one treasurer and one librarian to be appointed in the manner hereinafter mentioned; and that it shall be lawful for the said trustees, in their discretion, whenever they conceive it necessary, to appoint one and the same person treasurer and librarian.

[Library corporations heretofore incorporated under this act will continue to have the same number of trustees, unless they change them pursuant to section 14 of this chapter. By section 29 of Gen. Corp. Law the directors are given the general power to manage the affairs of the corporation. The power to appoint a librarian is omitted. By section 8 of this chapter, the members can regulate the appointment of officers and employes by the enactment of by-laws.]

§ 5. And in order to keep up a perpetual succession of trustees, Be it further enacted, That the offices of the said first trustees shall determine in the following year on the second Tuesday in the same month in which they were chosen, and that on the first Tuesday in the same month in which the first election was held, in every year forever thereafter there shall be a general meeting of the members of the corporation at some convenient place to be from time to time ascertained and fixed by the by-laws of the said corporation, and that then and there by plurality of votes of such members as shall so meet, not less than five nor more than twelve trustees shall be elected by ballot to serve the ensuing year; that any person holding more than one right in said library shall be entitled to one vote for each right he or she shall hold in the same; that the trustees of the said library shall annually at their first meeting on or after the day in which their offices commence, appoint one of the said trustees their chairman; that in case of the death, removal, refusal or neglect to serve of the chairman for the time being, it shall be lawful for the trustees of the said library at any of their meetings to appoint another chairman instead of the one dying, removing, refusing or neglecting to serve as aforesaid, to remain in office till the expiration of the time during which his predecessor was entitled to serve; and when and as often as any vacancy shall happen by the death, removal, resignation or neglect to serve of any of the said trustees, it shall be lawful for the chairman of the said trustees, or on his neglect or

(Laws 1796, ch. 43; R. S., 8th ed., 2035.)

refusal for any other two of the said trustees, to summon a meeting of the members of the said corporation, at a place fixed by the by-laws of the said corporation for the purpose of electing another or other person or persons instead of such as shall have so died, removed, refused or neglected to serve as aforesaid, and that such person or persons so to be chosen trustee or trustees at such meeting as last aforesaid, shall respectively remain in office during such time as the person in whose stead such trustee shall be chosen would have done in case such death, removal or refusal had not happened, and no longer; and that the trustees of the said library shall, at every such annual meeting of the members of the said corporation, exhibit to the members a state of the said library, the minutes of the proceedings of the trustees during the year immediately preceding such meeting, with the treasurer's and librarian's accounts, stating the amount of receipts and expenditures during such year.

[Section 8 of revision provides that the by-laws may prescribe the manner of holding elections, filling of vacancies, who is entitled to vote, the number of officers, and the manner of choosing them. Section 10 of revision provides for filling vacancies in board of directors, where no by-law provides therefor. By section 11 of revision the directors are required to make an annual report.]

§ 6. And be it further enacted, That the said trustees shall have stated meetings once in every quarter in every year, at such time and place as shall from time to time be appointed for that purpose, that the chairman or any two trustees of the said library for the time being shall and may from time to time, as occasion may require, summon and call together, at such place as shall from time to time be appointed by the by-laws of the said corporation, the trustees of the said library, giving them at least two days' previous notice of such meeting; that the chairman and a majority or more of the said trustees shall form a board of trustees, and that in the absence of the chairman, the trustees so met shall choose another to serve on that occasion, that the chairman shall have a casting vote and no other, that the chairman and a majority of the trustees so met shall have full power and authority to adjourn, from day to day, or for such other time as the business of the said corporation may require, and from time to time to appoint, and at their pleasure to displace a treasurer and librarian of the said library, and to appoint other or others in their stead and place, to ascertain the compensation to be allowed the treasurer or librarian or either of them for their service in their stations respectively, and to regulate and

(Laws 1796, ch. 43; R. S., 8th ed., 2036.)

appoint to them the said treasurer and librarian or either of them their respective powers, trusts and duties; to direct the application of moneys belonging to the said corporation to the purchase of such books and apparatus as they shall think proper, to the providing of a room or house for the safe keeping of the books of the said library, and to transact, do, manage and perform, in the name of the said corporation, all and every act and acts, thing and things whatsoever which shall be necessary to be done, and which the trustees of said library are by this law authorized to do; and to make, frame, constitute, establish and ordain, from time to time, and at all times hereafter, such laws, constitutions, ordinances and regulations for the government of the officers, members and servants of said corporation, for regulating the terms upon which the books of the said library shall be lent out both to the members of the said corporation and others, for fixing and ascertaining the times and places of the quarterly meetings of the said trustees, for altering, fixing and ascertaining the places of meeting of the members of the said corporation, for the election of trustees, for regulating the management and disposition of the books of the said library, and the moneys, funds and effects belonging to the said corporation, the mode of transferring rights in the said library from one person to another and all other the business and affairs whatever of the said corporation, as they or the major part of them so legally met shall judge best for the general good of said corporation, and for the more effectual promoting, increasing and preserving the said library, and the same or any of them to alter, amend or repeal, from time to time, as they or a major part of them so met shall think proper: Provided, such laws, constitutions, regulations or ordinances be not repugnant to the laws of this state.

[Section 8 of revision authorizes the adoption of by-laws, prescribing the time of meeting of directors. Otherwise the matter is left to the discretion of the directors under the general power to manage the affairs of the corporation. The general power of directing application of moneys, etc., is covered by general corporations law, section 29, authorizing the directors to manage the affairs of the corporation. The power to adopt by-laws in the first instance is vested in the members by section 8 of revision. But by section 29 of general corporation law, the directors are given the power to adopt a by-law, where the members have failed to do so.]

§ 7. And be it further enacted, That it shall and may be lawful for each and every of the members for the time being of the said corporation, his or her executors, administrators and assigns,

(Laws 1796, ch. 43; R. S., 8th ed., 2036.)

to give, sell, alien, assign, devise and dispose of their respective rights in the said library, and that their respective assigns shall be members of the said corporation, and shall be entitled to all and every the same rights and privileges in said library and said corporation as the original members are entitled to by this act: Provided, That a part of a right in said library shall not entitle the proprietor or owner thereof to any privilege whatsoever in said library or corporation.

[This section is omitted. By section 9 of revision it is provided that membership in a membership corporation is determined by the member's death, voluntary withdrawal or expulsion, and that thereon his rights and interests in the corporation cease, unless the by-laws otherwise provide.]

§ 8. And be it further enacted, That it shall and may be lawful at such meeting of a majority or more of the said trustees of the library for the time being, to make any by-laws, constitutions, or ordinances of the said corporation, to admit under the common seal of the said corporation such and so many persons, members of the said corporation, as they shall think beneficial to the said library, which members so admitted shall be entitled to have, hold, and enjoy all and every the same rights and privileges as the original members are entitled to by this act.

[Section 8 of revision authorizes the corporation to regulate by by-laws the admission and rights of members.]

§ 9. And be it further enacted, That each and every member of the said corporation for the time being, shall, on or before the first Tuesday in the month fixed for the election of trustees, annually pay to the treasurer of said library, for the use of the said corporation, the sum or sums which shall be fixed by the by-laws of said corporation, and that whenever any of the members of the said corporation shall neglect to pay the said annual sum, or any other sum which of right shall become due to the corporation, for the space of forty days next after the day on which the same ought to have been paid, that then the person or persons from whom the same shall be due, shall be precluded from exercising any of the privileges to which he became entitled by virtue of his being or becoming a member of the said corporation, until such sums shall be fully satisfied; and if such sums shall not be paid within two years after any such sums shall become due as aforesaid, that then and after

(Laws 1825, ch. 19; R. S., 8th ed., 2036.)

the expiration of two years from the time such payment shall become due, that the person or persons from whom the same shall become due, shall thereupon forfeit and be utterly excluded from all his, hers or their rights and privileges in the said library and corporation.

[All matter relating to fees and dues of members are fixed by by-laws adopted by the corporation, pursuant to section 8 of revision.]

(Laws 1825, chap. 19; R. S., 8th ed., 2036.)

Section 1. Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the trustees of all library companies, formed by virtue of the act above entitled, to have stated meetings semi-annually or quarterly, at such time and place as shall from time to time be appointed by a majority of such trustees for such purpose, anything in the sixth section of the act hereby amended to the contrary thereof in any wise notwithstanding, and at such meetings to do and perform all duties which, in and by the said act hereby amended, they are empowered and authorized to do and perform.

[Section 29 of Gen. Corporation L. gives to the directors the general power to manage affairs of corporation, which includes the power of holding regular meetings.]

(L. 1841, ch. 169; R. S., 8th ed., 2018.)

§ 3. The New York State Agricultural Society and the several county agricultural societies now formed or which shall be formed in this state, during the continuance of this act, shall annually elect such and so many officers as they shall deem proper; and it shall be the duty of such officers annually, to regulate and award premiums on such articles, productions and improvements as they may deem best calculated to promote the agricultural and household manufacturing interests of this state, having especial reference to the net profits which accrue, or are likely to accrue, from the mode of raising the crop or stock, or the fabrication of the article thus offered, with the intention that the reward shall be given for the most economical or profitable mode of competition; provided always that before any premium shall be delivered, the person claiming the same, or to whom the same may be awarded, shall deliver in writing to the president of the society, as accurate a description of the process in preparing the soil, including the quantity and quality of the manure applied, and in raising the crop, or feeding the animal, as may be; and also of the expense and product of the crop, or of increase in the value of the animal,

(Laws 1841, ch. 169; R. S., 8th ed., 2018.)

with the view of showing accurately the profit of cultivating the crop, or feeding or fattening the animal.

[The first clause of § 3 is covered by § 8 of revision, which authorizes the by-laws to regulate the number of officers. The remainder of the section is re-enacted without change of substance in § 142 of revision.]

§ 6. The presidents of the several county societies, or a delegate, to be chosen by them annually for the purpose, shall be ex officio members of the New York State Agricultural Society. (Thus amended by L. 1844, ch. 336.)

[Section 6 is re-enacted without change of substance in § 146 of revision.]

(L. 1847, ch. 133; R. S., 8th ed., 1935.)

Section 1. Any number of persons residing in this state, not less than seven, who shall desire to form an association for the purpose of procuring and holding lands to be used exclusively for a cemetery, or place for the burial of the dead, may meet at such time and place as they or a majority of them may agree, and appoint a chairman and secretary by the vote of a majority of the persons present at the meeting, and proceed to form an association by determining on a corporate name by which the association shall be called and known; by determining on the number of trustees to manage the concerns of the association, which number shall not be less than six, nor more than twelve; and thereupon may proceed to elect by ballot the number of trustees so determined upon; and the chairman and secretary shall immediately after such election divide the trustees by lot into three classes; those in the first class to hold their office one year, those in the second class two years, and those in the third class three years. But the trustees of each class may be re-elected if they shall possess the qualifications hereinafter mentioned. The meeting shall also determine on what day in each year the future annual elections of trustees shall be held. Any association formed under this act, may in its articles of incorporation designate a certain percentage of avails received from the sale of lots (after the debts for the purchase of any lands for the association are paid) which shall be set aside, and remain as a permanent fund forever; the avails thus set apart shall be invested by the trustees of the association in safe securities, and the income, and the income only, to be used under the direction of the trustees for the improvement, preservation and embellishment of the cemetery grounds of the

(Laws 1847, ch. 133; R. S., 8th ed., 1935.)

association, and not for the purchase of lands nor the erection of buildings. The percentage of the avails received from the sale of lots to be thus set aside shall not in any case be reduced from, or below the percentage stated in its articles of incorporation. (As amended by L. 1893, ch. 34.)

[Section 1 is re-enacted without change of substance in § 41 of revision, except that maximum number of directors is made fifteen.]

§ 2. The chairman and secretary of the meeting shall, within three days after such meeting, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such meeting shall have been held, which certificate shall state the names of the associates who attended such meeting; the corporate name of the association determined upon by the majority of the persons who met; the number of trustees fixed on to manage the concerns of the association, the names of the trustees chosen at the meeting and their classification and the day fixed on for the annual election of trustees; which certificate it shall be the duty of the chairman and secretary of such meeting to cause to be recorded in the clerk's office of the county in which the meeting was held, in a book to be appropriated to the recording of certificates of incorporation.

[That portion of § 2 prescribing what the certificate shall contain and where it shall be filed is contained in § 41 of revision which, however, requires the certificate to be acknowledged by seven or more persons instead of only by the chairman and secretary of the meeting. Nor does § 41 of revision require the names of all the associates attending the first meeting to be inserted in the certificate. The provision of § 2 relating to the manner of acknowledgment is not re-enacted as it is already covered by State Const. Law, § 15, while the provision relating to the recording of the certificate is not re-enacted.]

§ 3. Upon such certificate, duly acknowledged as aforesaid being recorded, the association mentioned therein shall be legally incorporated, and shall have and possess the general powers and privileges and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of part first of the Revised Statutes. The affairs and property of such associations shall be managed by the trustees, who shall annually appoint from among their number a president and a vice-president, and shall

(Laws 1847, ch. 133; R. S., 8th ed., 1935.)

also appoint a secretary and a treasurer, who shall hold their places during the pleasure of the board of trustees; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office; and shall have power to fill any vacancy in the office of president or vice-president occurring during the year for which they hold their office. (Thus amended by L. 1852, chap. 280.)

[The first sentence is not re-enacted as it is covered by § 11 of the General Corp. L. The provision relating to the management of the property is covered by Gen. C. L., § 29; the remainder of the first clause of the second sentence is covered by § 8, which authorizes the by-laws to provide for the selection of officers. The provisions authorizing the directors to require security from the treasurer and to fill vacancies in the office of president and vice-president are not expressly re-enacted.]

§ 4. Any association incorporated under this act may take by purchase or devise, and hold, within the county in which the certificate of its incorporation is recorded, not exceeding two hundred acres of land, or such further quantity as the legislature has prescribed or may prescribe, to be held and occupied exclusively for a cemetery for the burial of the dead. Such lands or such parts thereof as may from time to time be required for that purpose shall be surveyed and subdivided into lots or plats of such size as the trustees may direct, with such avenues, paths, alleys, walks and ornamental plats as the trustees may deem proper, and a map or maps of such surveys shall be filed and kept in the office of the association open to the inspection of all persons. The trustees must fix and determine the prices of the burial lots or plats and the conditions and restrictions imposed upon the use of such lots or plats, and keep a copy of the schedules of such prices and of such conditions and restrictions plainly printed and publicly posted in the principal offices of the association, open at all reasonable times to the inspection of all persons, and the trustees shall sell and convey the lots or plats designated on such maps upon payment of the prices so fixed and determined, subject to such conditions and restrictions as have been imposed upon the use of such lot or plats at that time adopted and thereafter to be adopted by the trustees of such association; provided, however, that the trustees shall not be required to sell and convey more than one lot or plat to any one person. But any city or town in which the lands of such association are situated and any incorporated village located wholly or in part in such town may purchase such reasonable number of lots or plats in such proper

(Laws 1847, ch. 133; R. S., 8th ed., 1936.)

portion of the lands of such association for the interment of strangers and other persons who may die in such town or village under such circumstances that it would be unreasonable to require payment for the privileges of making such interment; and such city, town or village or the county in which such lands are situated may also purchase other lots or plats as may be proper for the suitable burial of such soldiers as shall be buried at public expense. The conveyances shall be executed under the common seal of the association and signed by the president or vice-president and treasurer of the association. Any association incorporated under this act may hold personal property to an amount not exceeding five thousand dollars, or such further amount as the legislature has prescribed or may prescribe, besides what may arise from the sale of lots or plats. (As amended by L. 1891, ch. 382.)

[The first sentence is re-enacted in § 45 of revision without change of substance. The second sentence relating to the surveys of lots is in § 46 of revision. The third sentence, relating to the prices of lots and the sale thereof is re-enacted in § 49 of revision, but the use only of the lot can be sold. The power of municipalities to purchase lots is omitted here. It properly belongs in the Gen. Municipal Law. The manner of executing conveyance is in § 49 of revision. The last sentence is omitted being covered by Gen. Corporation L., §§ 11, 12.]

§ 5. The annual election for trustees to supply the place of those whose terms of office expire shall be holden on the day mentioned in the certificate of incorporation, and at such hour and place as the trustees shall direct, at which election shall be chosen such number of trustees as will supply the places of those whose terms expire. But the trustees of any corporation organized under this act shall have power, by resolution of a majority of all of said trustees, to change the time for the annual election of trustees, as fixed in their act of incorporation; but no such resolution shall take effect until sixty days after the same shall have been published six successive weeks, once a week, in some newspaper published in the city or county where the cemetery of the said association is situated, and a copy of said resolution, certified by the president and secretary thereof, shall have been filed in the office of the clerk of the county where their certificate of incorporation is recorded. The trustees chosen at any election subsequent to the first shall hold their places for three years, and until others are chosen to succeed them. The election shall be

(Laws 1847, ch. 133; R. S., 8th ed., 1936.)

by ballot, and every person of full age who shall be proprietor of a lot or plat in the cemetery of the association, containing not less than ninety-six square feet of land, or if there are more than one proprietor of any such lot or plat, then such one of the proprietors as the majority of joint proprietors shall designate to represent such lot or plat, may, either in person or by proxy, give one vote for each plat or lot of the dimensions aforesaid, and the persons receiving a majority of all the votes given at such election shall be trustees to succeed those whose term of office expires. If at any such election one-fifth in number of the said proprietors shall not, in person or by proxy, vote thereat, then the trustees to be chosen shall be elected and chosen by the existing trustees, or a majority of them, unless such trustees to be chosen shall be elected and chosen by the voters of holders of unredeemed certificates or bonds given for the purchase or improvement of said cemetery grounds, pursuant to chapter one hundred and sixty-three of the laws of eighteen hundred and sixty; and the existing trustees shall, in all cases, hold their places until their successors are elected and qualified. But in all elections after the first, the trustees shall be chosen from among the proprietors of lots or plats. But no proxy shall be voted upon at any election for trustees that has not been executed within ten months prior to such election; and the trustees shall have power to fill any vacancy in their number occurring during the period for which they hold their office. Public notice of the annual elections shall be given in such manner as the by-laws of the corporation shall prescribe. (Thus amended by L. 1890, ch. 229.)

[The first sentence of § 5 is not re-enacted, as it is unnecessary. The time for holding the annual meeting may be changed pursuant to § 15, by filing supplemental certificate. The by-laws may prescribe the term of office of trustees. Section 43 of revision provides for who may vote at corporate meetings.

Vacancies in the board of directors occurring other than by expiration of term, may be filled by the board until the next annual election instead of for the remainder of the term, pursuant to section 14 of revision.]

§ 6. The trustees at each annual election shall make reports to the lot proprietors of their doings, and of the management and condition of the property and concerns of the association. If the annual election shall not be held on the day fixed in the certificate of incorporation, the trustees shall have power to appoint another day not more than sixty days thereafter, and shall give public

(Laws 1847, ch. 133; R. S., 8th ed., 1936.)

notice of the time and place, at which time the election may be held with like effect as if holden on the day fixed on in the certificate. The office of the trustees chosen at such time to expire at the same time as if they had been chosen at the day fixed by the certificate of incorporation.

[By § 11 of revision the directors are required to make annual report. Section 24 of Gen. C. L. provides for holding elections where not held on day appointed.]

§ 7. All lots or parts of lots or plats which shall be conveyed by the association as a separate lot or plat, shall be indivisible, but may be held and owned in undivided shares; but any lots or plats or parts of lots or plats remaining unsold, and in which there shall have been no interment, may, by order of the trustees be resurveyed, enlarged, subdivided or altered in shape or size, and designated by numbers or otherwise on any map or maps which may be filed and kept pursuant to the fourth section of this act. One-half at least of the proceeds of all sales of lots or plats shall be first appropriated to the payment of the purchase money of the lands acquired by the association until the purchase-money shall be paid, and the residue thereof to preserving, improving and embellishing the said cemetery grounds and the avenues or roads leading thereto, and to defraying the incidental expenses of the cemetery establishment; and after the payment of the purchase-money and the debts contracted therefor, and for surveying and laying out the land, the proceeds of all future sales shall be applied to the improvement, embellishment and preservation of such cemetery, and for incidental expenses, and to no other purpose or object unless expressly authorized by law. Associations formed under this act may also agree with the person or persons from whom cemetery lands shall be purchased, to pay for such lands, as the purchase-price thereof, any specified share or portion not exceeding one-half the proceeds of all sales of lots or plats made from such lands, in which case the share or portion of such proceeds so agreed upon, not exceeding one-half thereof, shall be first appropriated and applied to the payment of the purchase-money of the land so acquired, and the residue thereof shall be appropriated to preserving, improving and embellishing the said cemetery

(Laws 1847, ch. 133; R. S., 8th ed., 1937.)

grounds, and the avenues, paths and roads therein and leading thereto, and to defraying the incidental expenses of the cemetery establishment. In all cases where cemetery lands shall be pur-

(Laws 1847, ch. 133; R. S., 8th ed., 1937.)

chased and agreed to be paid for in the manner hereinbefore provided, the prices for lots or plats specified in the by-laws, rules and regulations first adopted by such associations, shall not be changed without the written consent of a majority in interest of the persons from whom the cemetery lands were purchased, their heirs, representatives or assigns. (Thus amended by L. 1879, chap. 108.)

[The first part of the above section is re-enacted in § 49 of revision, with the following change: Instead of being indivisible lots, may be divided with the consent of the lot-owner and the corporation. By § 46 the corporation is authorized to divide unsold lots or plats.

The remainder of the section is re-enacted without change of substance in § 50 of revision.]

[Section 8 repealed by L. 1886, chap. 593.]

§ 9. Any association incorporated pursuant to this act, may take and hold any property, real or personal, bequeathed or given upon trust, to apply the income thereof under the direction of the trustees of such association, for the improvement or embellishment of such cemetery, or the erection or preservation of any building, structures, fences or walls, erected or to be erected upon the lands of such cemetery association, or upon the lots or plats of any of the proprietors; or for the repair, preservation, erection or renewal of any tomb, monument, gravestone, fence, railing, or other erection, in or around any cemetery lot, or plat; or for planting and cultivating trees, shrubs, flowers or plants, in or around any such lot or plat, or for improving or embellishing such cemetery, or any of the lots or plats in any other manner or form, consistent with the design and purposes of the association according to the terms of such grant, devise or bequest.

[Section 9 is re-enacted without change of substance in § 45 of revision.]

[Section 10 is not repealed.]

§ 11. Whenever the said land shall be laid off into lots or plats, and such lots or plats, or any of them, have been transferred to individual holders, and after there has been an interment in a lot or plat, so transferred, or after the death of the holder or proprietor of any lot or plat, such lot or plat, from

(Laws 1847, ch. 133; R. S., 8th ed., 1938.)

the time of such first interment, or from the time of such death, shall be forever thereafter inalienable, and shall, upon the death of the holder or proprietor, descend to the heirs-at-law of such holder or proprietor and to their heirs-at-law forever, provided that any one or more of such heirs-at-law may release to any other of the said heirs, or any one or more of two or more joint-owners, may release to any other of the joint-owners, his, her or their interest in the same on such conditions as shall be specified in the release, a copy of which shall be filed in the office of the cemetery association; and provided, further, that the body of any deceased person shall not be interred in any lot or plat, unless it be the body of a person having, at the time of such decease, an interest in such lot or plat, or the relative of some person having such interest, or the wife or husband of such person, or his or her relative, except by the consent of all persons having such interest; and provided, further, that in case all bodies interred in any lot or plat shall be lawfully removed therefrom, the owner or owners of such lot or plat may apply to any special term of the supreme court held in the county where the cemetery of such association is situated, or in an adjoining county, for leave to sell the same. Notice of such application, with a copy of the papers upon which the same is founded, shall be given to all parties interested, including such association, as in case of ordinary motions, upon notice, brought before the said court; and the said court may, for proper cause shown, authorize the sale of such lot or plat. But after the death of the holder or proprietor of any lot or plat, or if there be more than one holder or proprietor, after the death of either or any of them, no such sale shall be authorized by the court, unless directed or authorized to be made in and by the last will and testament of said deceased. Any body interred in any lot and removed therefrom shall be deemed to be lawfully removed, within the meaning of this section, if such removal was with the consent of the cemetery association, on the written application of the executor, or widow, or widower; or nearest of kin of the deceased; or if such association refused such consent, then, in lieu thereof, the consent of any special term of the supreme court held in the county where the cemetery of such association is situated, or an adjoining county. At any time when application for such consent shall be made to any such special term, notice thereof, as in case of ordinary motions, upon notice, brought before the said court, with a copy of the papers upon which the same is founded, shall be given to said association and to such other parties as the court shall direct;

(Laws 1847, ch. 133; R. S., 8th ed., 1938.)

and the said court may, for proper cause shown, authorize the removal of such body. (Thus amended by L. 1880, chap. 566.)

[The first part of the section is in § 49 of revision, without change of substance. The provision restricting burials is in § 51 of revision. If no burials have been made in a lot or all the bodies have been removed, § 49 authorizes the lot owners to sell the lots, with the consent of the corporation. The provision that, after the death of the holder of a lot, it shall not be sold unless directed by his will, is omitted because it is believed that sale is sufficiently restricted if prohibited where a body is buried in the lot. There is no reason why an heir or devisee owning a lot in which no burials have been made should not sell as well as the original holder. Section 51 of revision provides for the removal of bodies from cemetery lots.]

§ 12. It shall be the duty of every rural cemetery association incorporated pursuant to this act to provide suitable lots and plats for the burial of the dead without interference with the portions of its grounds set apart for ornamental purposes, and from time to time acquire additional land for burial purposes, including such land as shall be proper for ornamenting the same, whenever such land shall be needed and the financial condition of the association shall warrant the expenditure required therefor. (As am. by L. 1891, ch. 382.)

[Section 12 is re-enacted without change of substance in § 45 of revision.]

§ 13. An accurate record of every interment in every cemetery belonging to such rural cemetery association shall be made by the trustees or other proper officers having control of the same, showing the date of the interment and the name, age and place of birth of the person buried, when these particulars can be conveniently ascertained; such record shall be so kept as to show the lot and part of the lot in which such interment shall have been made, and a copy of such record, duly certified by the secretary of such association shall be furnished on demand and payment of such fees therefor, as are allowed to county clerks for certified copies of records. (As am. by L. 1891, ch. 382.)

[Section 13 is re-enacted without change of substance in § 48 of revision.]

(L. 1848, ch. 299; R. S., 8th ed., 2020.)

§ 3. The New York state agricultural society, and the several county agricultural societies, now formed, or which shall hereafter be formed, and the American institute, shall annually elect

(Laws 1848, ch. 299; R. S., 8th ed., 2020.)

such officers as they may deem proper, and it shall be the duty of such officers annually to regulate and award premiums on such articles, productions and improvements, as they may deem best calculated to promote the agricultural and household manufacturing interests of this state, having special reference to the net profits which accrue or are likely to accrue from the mode of raising the crop or stock, or the fabrication of the articles offered with the intention that the reward shall be given to the most economical or profitable mode of competition; provided always, that before any premium shall be delivered, the person claiming the same, or to whom the same may be awarded, shall deliver in writing to the president of the society, an accurate description of the process in preparing the soil, including the quantity and quality of the manure applied in raising the crop and the kind and quantity of food in feeding the animal, as may be; also the expense and product of the crop, or of increase in value of the animal, with a view of showing accurately the profit of cultivating the crop, or feeding or fattening the animal.

[Section 3 is re-enacted without change of substance in § 142 of revision.]

§ 6. The presidents of county societies, or delegates to be chosen by them annually for the purpose, shall be ex officio members of the New York State Agricultural Society.

[Section 6 is re-enacted without change of substance in § 146 of revision.]

(Laws 1848, chap. 319; R. S., 8th ed., 1922.)

Section 1. Any five or more citizens of full age, citizens of the United States, a majority of whom shall be citizens of and resident within this state, who shall desire to associate themselves for benevolent, charitable, literary, historical, scientific, missionary or mission or Sunday school purposes, or for the purpose of mutual improvement in religious knowledge, or for the furtherance of religious opinion, or for the purpose of promoting and cultivating the fine arts by establishing a gallery or collections of pictures and statuary, including other objects of the fine arts, and for the purpose of maintaining a library, or as a society for the prevention of crime, or for any two or more of such objects, may make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in the state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of such society is to be conducted

(Laws 1848, ch. 319; R. S., 8th ed., 1922.)

a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers of such society for the first year of its existence. Such society may select, from its board of directors or managers, not less than five nor more than fifteen of said directors or managers, at the time of its organization or thereafter, on consent, in writing, of a majority of said directors or managers to serve as trustees of said society for the care, custody and management of its property interests, as may be prescribed by its rules or by-laws, to act in such capacity in the place of said directors or managers or any committee thereof; and when so selected a certificate thereof shall be filed with the original certificate of incorporation. And any corporation organized, or which may hereafter be organized, under the provisions of this act, may, from time to time, change the title of the members of their managing board or increase or decrease the number thereof to not less than five, on the consent, in writing, of not less than two-thirds of their number. A certificate of such change, executed as hereinabove provided for the original certificate, shall be filed with the original certificate; but neither such original certificate nor such amendment thereof shall be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which the place of business or principle* office of such company or association shall be located, to be indorsed on such certificate; and no written consent or approbation shall be given by any justice of the supreme court, for the organization and incorporation of any society under this act, for the care or disposal of any orphan, pauper or destitute children, except upon the certificate in writing of the state board of charities approving of the organization and incorporation of such society, which certificate of such state board of charities shall be filed with the original certificate of such incorporation. (As am. by L. 1894, ch. 325.)

[The provisions in regard to organization of corporation and filing of certificate and approval thereof are substantially re-enacted in §§ 30 and 31 of revision. The provision that the corporation may change title of its managing board is omitted. The provision that the directors or trustees may increase or decrease their number is superseded by § 14, which provides for an increase or decrease by vote of the members. The provision in relation to trustees of the property of the corporation is in § 10 of revision.]

* So in the original.

(Laws 1848, ch. 319; R. S., 8th ed., 1923.)

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession and shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal, and the same may alter and change at pleasure; and they and their successors, by their corporate name shall, in law, be capable of taking, receiving, purchasing and holding real and personal estate for the purposes of their incorporation and for no other purpose,to an amount not exceeding in the aggregate the sum of two million dollars in value; but the clear annual income of such real and personal estate shall not exceed the sum of two hundred thousand dollars; to make by-laws for the management of its affairs, not inconsistent with the Constitution and laws of this state or of the United States; to elect and appoint the officers and agents of such society, for the management of its business and to allow them a suitable compensation. (Thus amended by L. 1885, chap. 88, superseding L. 1872, chap. 649.)

[The general powers of the corporation are in G. C. L., § 11. The power to hold property not exceeding three million dollars in value, the clear annual income of which is not more thau five hundred thousand dollars is in § 12, G. C. L.. Section 31 of revision provides that on filing the certificate the corporation is formed. The power to make by-laws is in § 8 of revision.]

§ 3. The society, so incorporated, may annually elect, from its members, its trustees, directors or managers, at such time and place, and in such manner as may be specified in its by-laws, who shall have the control and mangement of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business, if not otherwise provided in the by-laws, except that no such purchase, lease or sale of real estate shall be made unless two-thirds of the whole number are present at the meeting at which it is ordered; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society. (Thus amended by L. 1853, chap. 487.)

[By § 8 of revision the corporation is given power to make by-laws regulating the election of officers. By § 29 of Gen. Corp. Law, the directors are given the management of the affairs of the corporation, and a majority is made a quorum unless the

by-laws provide otherwise. By § 13 of revision, real property can only be sold on leave of the court on application of a majority of the members, whereas by this section two-thirds of the trustees seem to have such power.]

§ 5. The provisions of this act shall not extend or apply to any association or individuals, who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state. (Thus amended by L. 1861, chap. 239.)

[Omitted. Covered by G. C. L., § 6.]

[Section 6, relating to devises, is not repealed.]

§ 7. The trustees of any company or corporation organized under the provisions of this act, present at any meeting authorizing the contraction of any debt, and acquiescing in the passage of any resolution or order authorizing the same, shall be jointly and severally liable for any such debt, provided, a suit for the collection of the same shall be brought within one year after the debt shall become due and payable. (Thus amended by L. 1853, chap. 487.)

[Section 11 of revision makes the directors liable for debts contracted while directors, payable within one year, if a suit against the corporation for the collection of the same is brought within one year after the debt is due, and if after execution against the corporation is returned unsatisfied, a second suit is commenced against such directors within one year after the return of such execution.]

§ 8. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose, and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands, stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit that such association or corporation has not been engaged directly or indirectly, in any other business than such as is set forth in the original certificate on file.

[The visitation by supreme court is retained in § 16 of revision. The provision requiring the filing of an annual report is omitted. See notes to §§ 11 and 16.]

(Laws 1848, ch. 319; R. S., 8th ed., 1924.)

[Section 9 was repealed by Gen. C. L. of 1890.]

[Section 10 is the right to alter, amend or repeal.]

§ 11. The number of trustees, directors or managers in any corporation which may have been heretofore or which may hereafter be organized under the said act may be increased as follows: The existing trustees of any such corporation, or a majority thereof, shall make and sign a certificate declaring how many trustees, directors or managers the corporation shall have in the future management of its business and stating the names of the new or additional trustees, directors or managers, which certificate shall be acknowledged or be proved by a subscribing witness, and shall be filed in the office of the secretary of state, and also in the office of the clerk of the county where the original certificate of incorporation was filed; and from and after the filing of such certificate, the trustees, directors or managers of such corporation shall be deemed increased to the number therein stated, and the persons so named shall be trustees until a new election of trustees, directors or managers shall be had according to said act and the by-laws or regulations of said corporation. (Added by L. 1875, chap. 452.)

[Section 14 of revision allows the members to change the number of directors, but the number can not be changed by the directors themselves as provided in this section.]

[There is no § 12 to this act. Section 13 was added as such.]

§ 13. The term of existence of any corporation which may have heretofore been or which may hereafter be organized under this act, may be extended in the following manner: The trustees of such corporation, or a majority of them, shall make and sign a certificate declaring the term, not exceeding fifty years, for which the said corporation is to be continued, which certificate shall be duly acknowledged, and be filed in the office of the secretary of state, and also a copy thereof in the office of the clerk of the county where the original certificate of incorporation was filed; and from and after the filing of such certificate and copy, the said corporation shall be deemed continued for the term of years therein specified. (Added by L. 1876, chap. 190.)

[By § 32 of Gen. C. L., a membership corporation can extend its existence with the consent of two-thirds of its members. This § 13 is omitted, and with all membership corporations the corporations under this law are brought within the provisions of the Gen. C. L., § 32.]

(Laws 1849, chap. 273; R. S., 8th ed., 1924.)

[Section 1 amends the act of 1848.]

§ 2. The trustees, directors or stockholders of any existing benevolent, charitable, scientific or missionary corporation may by conforming to the requirements of the first section of the act hereby amended, re-incorporate themselves or continue their existing corporate powers for the period limited by the act hereby amended, and all the property and effects of such existing corporation shall vest in and belong to the corporation so re-incorporated or continued.

[Omitted as unnecessary as to corporations created by general laws repealed by this chapter. Corporations created by special law can re-incorporate under § 6.]

(Laws 1851, ch. 358, amends L. 1847, ch. 133, § 5.)
(Laws 1852, ch. 280, amends L. 1847, ch. 133.)
(Laws 1853, ch. 122, amends L. 1847, ch. 133.)
(Laws 1853, ch. 339, impliedly repealed by L. 1855, ch. 425.)

(L. 1853, ch. 395; R. S., 8th ed., 2037.)

Section 1. Any number of persons, not less than three, residing in this State, may become incorporated as a joint-stock company for the purpose of founding, continuing and perpetuating a library of one or the other of the following descriptions, in the manner hereinafter mentioned.

§ 2. A general company, formed by virtue of this act, may be either a circulating library company or a reference library company. The books, manuscripts, maps, prints, coins, medals, paintings or other article of literary property or work of art of the first mentioned company, may either in whole or in part, as the trustees shall from time to time determine, be taken for use from the library rooms or buildings of the corporation. But no book, manuscript, map, print, coin, medal, painting, article of literary property or work of art, belonging to the second mentioned company, shall be taken, kept or used, out of the library rooms or buildings of the company, under any permission or pretense whatever except for its repair or preservation, or for the purpose of being deposited in some other building of the company, should they change from one to another location, nor shall it be sold or exchanged, unless the company have an exact duplicate thereof.

§ 3. Such persons as are mentioned in the first section of this act, when desirous to form a library company under this act, may meet and appoint a chairman and secretary, by a vote of a majority of those present, and proceed to form one or the other

(Laws 1853, ch. 395; R. S., 8th ed., 2037.)

of the descriptions of company specified in the second section of this act, by determining:

1. Upon the description of company they will form.

2. Upon a corporate name for such company, which shall include the word circulating or reference, as the description of the company may be.

3. Upon the number of trustees to manage the affairs of the corporation, not less than three or more than nine.

4. Upon the city or town of their county in which the library shall be located.

5. Upon the trustees for the first year.

6. Upon the day of the annual election thereafter, and the day the new trustees that may be elected shall enter upon office.

7. Upon the amount to be paid for a share of the stock to constitute a member, how much thereof shall be paid down, and the annual sum to be required by the company on each share of said stock.

[Library corporations can hereafter incorporate only under the University Law (L. 1892, ch. 378), with the consent of the regents. Library corporations heretofore incorporated under this act of 1853, however, will continue subject to the membership corporations law, article one.]

§ 4. The chairman and secretary of the meeting shall, within three days thereafter, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such library is to be located, which certificate shall state the time and place of such meetings, the names of those who attended the same and concurred in the proceedings, and the matters specified in the last preceding section determined upon by such meeting; and it shall be the duty of the said chairman and secretary to cause such certificate to be recorded in the clerk's office of said county, in a book appropriated to the recording of certificates of incorporation; and such original certificate, acknowledged as aforesaid, or the record thereof, or an exemplified or certified copy of such record, shall be evidence of any matter above authorized to be inserted therein, and which it shall contain.

§ 5. Upon such certificate being so recorded, the company mentioned therein shall be deemed to be legally incorporated, and shall have and possess the general powers and privileges of corporations, and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of the first

(Laws 1853, ch. 395; R. S., 8th ed., 2038.)

part of the revised statutes, so far as the same are consistent with this act.

[See note to § 3.]

§ 6. The business of the company shall be managed by its trustees, a majority of whom shall be a quorum; they shall be elected annually by the shareholders, and each of them, after the first year, must be a shareholder; they shall annually appoint a president and vice-president from among their own body, and shall also appoint a treasurer, a secretary and librarian, who shall hold their offices during the pleasure of the trustees; and the treasurer and librarian may be required to give security for the faithful performance of the duties of their offices, respectively, and for the payment and delivery over to their successors, or other person or persons that may be directed by the trustees to receive the same, of the money and property intrusted to their care or custody, respectively; and the said trustees shall have power to admit members of the company who may apply for admission and become shareholders; to make calls for payment of the sums required to pay for the shares subscribed in such installments as they think proper; to establish other offices than those before mentioned; to appoint the officers thereto, and also all agents and servants deemed by them expedient for the company, but such offices and appointments shall only be during the pleasure of the trustees; to make by-laws and pass resolutions, and the same from time to time to repeal, renew or alter, for regulating the election of trustees and officers, for transferring shares of the stock of said company, for prescribing the evidence, the transfer thereof, and also the duties of the officers, agents and servants of the company, the security they shall give and the compensation, if any, for the care, use, increase and preservation of the library and other property of the company; also to procure, by purchase or donation, a proper lot and building for said library, with proper furniture and conveniences for the same and its use, and for the residence of its librarian or keeper thereof; also, to purchase, receive by gift or on deposit for use, any books, manuscripts, maps, prints, coins, medals, paintings and other literary articles and works of art for the library of the company, and generally to do any act necessary for the accomplishment of the objects of the corporation, not contrary to this act or to the constitution or laws of this state or of the United States.

[The first clause of this section relating to the management of the business and the number of directors constituting a quorum

(Laws 1853, ch. 395; R. S., 8th ed., 2038.)

is not re-enacted, as it is already covered by § 29 of the Gen. Corp. L. The clause commencing "to establish other offices, etc," down to and including the words "and other property of the company," is not re-enacted as it is already covered by § 11 of the Gen. Corp. L. which authorizes the members to make the by-laws. The general powers conferred by this section are covered by the power of the directors to manage the affairs of the corporation and the power of the members to make by-laws.]

§ 7. Every person who shall be admitted a member of the corporation, with the right of voting, shall be the owner of at least one share of the stock thereof, for which he shall have paid the company all such sums of money as shall have been required to be paid thereon; and each member shall be entitled to one vote on every such share held by him, and standing in his name on the books of the company, and the shares shall be considered personal property, and pass and be transferable as such, subject, however, to the annual payments thereon, and to forfeiture for non-payment of calls or of annual payments, and to the provisions for regulating their transfer; and a certificate shall be granted to each shareholder for his shares, and no transfer shall be deemed valid, as between the shareholder and the company, until it is registered in some proper book to be provided by the company, which book shall be open to the inspection of any shareholder, in the library building, at all reasonable business hours in the day-time, and shall be evidence of the right to vote in case of dispute.

[Covered by power to make by-laws regulating the right of members to vote, § 8.]

§ 8. Each share in such library company shall be charged with the payment of such annual sum as may be agreed on at the formation of the company and mentioned in said certificate; and such annual payment may be increased by a majority of the votes of the persons holding shares, at a meeting of the trustees, holders, to be held at the library rooms, on notice of the trustees, specifying the proposed increase, published once a week, for four weeks, in at least one of the newspapers published in the county where the library is located, and posted, for a length of time, in the library room; but such increase shall not, at any one time, be made exceeding fifty per cent. more than the last preceding annual charge, nor exceed, in all, twenty-five dollars per year. Half of the annual charge shall be payable on the first Monday of May, and half on the first Monday of November, in each year, such payments to become due on the first of the said days which

(Laws 1853, ch. 395; R. S., 8th ed., 2039.)

shall occur after the shares shall have been created, or such annual payments have been increased; and the said semi-annual sums, when due, may be collected by suit, if deemed expedient, and if payment of any of them shall be neglected to be made (whether sued for or not) for five years, the share of which it may be chargeable may be declared by the trustees at any time thereafter, and while any part of it remains unpaid, to be forfeited, and shall thenceforth cease to be considered a share in the company, or to give any right or interest in said company to the holder or claimant thereof. Shares of the company may also be declared forfeited by the trustees for non-payment of the calls of any installment at the time specified in such call, and with the like effect as in this section mentioned on forfeiture for non-payment of semi-annual charges where such forfeiture shall be declared.

[See note to last section.]

§ 9. The library of the company shall be open daily (Sundays and such holidays as the trustees shall, in their by-laws, specify, excepted), under the regulations of the trustees, for use by the shareholders, without requiring from them any other than the semi-annual payments aforesaid on their respective shares, and the trustees may prescribe the terms on which persons not shareholders may inspect, make researches in, and use said library, but subject, however, in case of a reference library, to the restriction against and punishment for the removal of any book, manuscript, map, print, coin, medal, painting or other literary article or work of art belonging to said library company from their library building.

§ 10. Any person who shall fail to return, at the expiration of the time prescribed for its use, destroy or injure any article or property of any library company incorporated under this act, shall be liable to damages to the full value of such article, and also to such further amount of damages as any court in which a suit may be prosecuted therefor may award, to be determined however by jury, in case the action is tried by jury; and in case any book, manuscript, map, coin, painting or other literary article or work of art shall be removed from the library building of any reference library company, except for its preservation or repair, or for the purpose of being deposited in some other building of the company, should they change from one to another location, the person so removing or assisting in so removing the same, and any trustee or officer of the company consenting to the removal thereof, or any person in possession thereof, after such removal, refusing to permit the same to be restored to such last mentioned library, shall

(Laws 1853, ch. 395; R. S., 8th ed., 2039.)

be deemed guilty of a misdemeanor, and on being indicted therefor, no nolle prosequi, discontinuance or relinquishment of the indictment or prosecution shall be allowed, except upon the terms of paying all the costs to the people, and a certificate of satisfaction from the company under their corporate seal, and the signature of a majority of the trustees for the time being; and the book or article so removed shall still be the property of the company, and damages, as aforesaid in this section, may be recovered with costs in any court having cognizance of the suit; nor shall anything herein contained affect any prosecution for a felonious taking of the property of such company.

[All of this section is omitted, with the exception of the penal provision, which is covered by Penal Code, § 647; the entire section relates to matters of internal government, which may be regulated by by-laws.]

§ 11. No reference library company shall be changed into a company of any other description by any act of the trustees or shareholders, except by the unanimous consent of such shareholders for the time being; and in case the legislature shall, without such unanimous consent, pass any law whereby the books, manuscripts, maps, prints, coins or medals, paintings, or other article of literary property, or work of art of such company, or any of them, shall be permitted to be removed from them, or used elsewhere than in its library rooms, every dissenting shareholder shall first be paid the full value of his shares in said company, to be ascertained by appraisers appointed as the legislature shall direct, and sworn to appraise all the property of such company at its full value; and any person who may have made any donation to said company, if living, or his personal representative, if the same be dead, shall be entitled first to receive back the article and articles given, if, when the act making the change is passed, it or any of them is or are possessed by the company; or if the donation was cash or real estate, to receive repayment of the cash and a reconveyance of the real estate or of the property for which such real estate may have been sold or exchanged.

[Omitted.]

§ 12. Any company incorporated under this act may take and hold real and personal property by gift, purchase, grant or devise; but any real estate, except such lot or lots as may be necessary or reasonably convenient for the library buildings

(Laws 1853, ch. 395; R. S., 8th ed., 2040.)

and a residence for the librarian, shall be sold and disposed of by the trustees in one year after the title and possession thereof shall be vested in the company (the receipt of the rent thereof to be deemed as actual possession); and it shall not be lawful for the trustees to retain, uninvested or unappropriated to the legitimate objects of the company under this act, more than two thousand dollars for a longer period than three months at any one time.

[The first clause of § 12 is not re-enacted, as it is already covered by § 11 of the Gen. Corp. L. The remainder of the section is omitted.]

§ 13. Any library company incorporated under this act may, with the consent of two-thirds of the members, for the purpose of purchasing a site and erecting library buildings, or a residence for the librarian, borrow money upon the bond or bonds of such company, at a rate of interest not exceeding seven per cent per annum, and secure payment of the same by mortgage on such site and buildings; but no such company shall incur any debts except those which may be created as above provided for the purpose of purchasing a site for and erecting library buildings, for any other purpose than is above provided, except such taxes and assessments as shall be imposed upon its property according to law; and the trustees shall be liable jointly and severally for any debt not hereby authorized, which they shall have contracted for the company, while they were trustees, and may retain and apply sufficient of the cash, bonds, notes or other securities of the company to discharge them from such liability, so far as it may have been contracted for the legitimate purposes of the company under this act; but no board of trustees shall lawfully make any contract on account of the company, except for such site or buildings, or the payment of the moneys so borrowed, not to be performed during the year for which the board is chosen. (Thus amended by L. 1875, chap. 419.*)

[The provision of § 13 authorizing the trustees to retain and apply sufficient of the cash, bonds, notes or other securities to discharge them from liability for debts lawfully contracted, is not re-enacted. The liability of directors is fixed by § 11 of revision.]

§ 14. If any election shall fail to be held on the day mentioned in said certificate for incorporation, it may be held on any other day determined on by the trustees, on a notice of not less than six days, signed by the president or a majority of the

(L. 1854, ch. 50; R. S., 8th ed., 1924.)

trustees, and posted during that time in the library room; and the trustees chosen at such special election shall hold their offices as if they had been chosen on the annual election day. Any vacancy in the office of trustee, occurring between the days of annual election, may be supplied by a majority of the trustees remaining in office, at any meeting duly held by them, and the person so chosen shall hold as if chosen at the day for the annual election next preceding such choice.

[Omitted as being covered by Gen. Corp. L., § 23.]

(L. 1853, ch. 487, amends L. 1848, ch. 319.)
(Laws 1854, ch. 50; R. S., 8th ed., 1924.)

Section 1. It shall be lawful for the supreme court of this state, upon the application of any benevolent, charitable, scientific or missionary society, incorpoated by law, in case it shall deem it proper, to make an order for the mortgaging of any real estate belonging to said corporation, and to direct the application of the moneys arising therefrom, by the said corporation, to such uses as the same corporation, with the consent and approbation of the said court, shall conceive to be most for the interest of the society for which the real estate so mortgaged belongs.

[By § 13 of revision the property of a membership corporation may be mortgaged by leave of the court and by the concurring vote of at least two-thirds of its directors.]

(L. 1854, ch. 112; R. S., 8th ed., 1945.)

Section 1. Private or family cemeteries may be incorporated in the manner hereinafter prescribed.

[Section 1 is not re-enacted in form.]

§ 2. Any number of persons desirous of availing themselves of the provisions of this act may purchase or set off, for a private cemetery, land to the extent of not more than three acres; and after inclosing the same shall cause to be published in a newspaper printed in the county where the land is situated, or if there be no newspaper printed in that county, then in one printed in an adjoining county, a notice that a meeting of the proprietors of the land so purchased or set off will be held at a time and place designated, such notice to be published at least once in each week for six weeks successively next previous to the time of meeting; such meeting shall consist of not less than seven of said proprietors, and shall then and there elect not less than three of their number as trustees to manage the affairs of such corpora-

(Laws 1854, ch. 112; R. S., 8th ed., 1945.)

tion for a period of five years; and in case of the death or resignation of either of said trustees, the surviving or remaining trustees shall be authorized to fill the vacancy for the residue of the term from the members of the corporation, and at the end of said term new trustees shall be chosen in the same manner.

[The provision in § 2 relating to the publication of notice of meeting is not re-enacted. The remainder of the section is re-enacted, without change of substance, in § 56 of revision.]

§ 3. The chairman and secretary of the meeting shall make a written certificate and sign their names thereto, and acknowledge the same before an officer authorized to take the acknowledgment of deeds, containing the names of said trustees and the title of said corporation, and a description of the land, and shall file the same in the office of the clerk of the county in which the land so set apart is situated, and thereupon the said proprietors shall be deemed legally incorporated, and shall possess the general powers and be subject to the general liabilities which corporations by law possess and are subject to; a certified copy of such certificate shall be evidence in all courts and places of the formation of such corporation.

[The provision relating to the powers and liabilities of the corporation is not re-enacted, as it is covered in § 11 of the Gen. Corp. Law. The provision making a certified copy of the certificate of incorporation evidence is not re-enacted, as it is already covered by § 9 of the Gen. Corp. Law. The remainder of the section is re-enacted, without change of substance, in § 56 of revision.]

§ 4. No cemetery shall be established under this law that shall not be inclosed by a suitable fence or wall, nor shall such cemetery be hereafter located at a less distance than one hundred rods from any dwelling-house, without the written consent of the owner or owners thereof.

[Section 4 is re-enacted in § 56 of revision.]

[Section 5 repealed by L. 1886, ch. 593.]

§ 6. Cemeteries which have heretofore been used for private or family interments may be incorporated under the provisions of this act, subject to the provisions and conditions therein prescribed.

[Section 6 is re-enacted without change of substance in § 56 of revision.]

(Laws 1854, ch. 112; R. S., 8th ed., 1946.)

§ 7. It shall be lawful for any person to set apart or dedicate by deed, or devise by will, land to be used exclusively for a family cemetery or burial place for the dead, to appoint trustees to manage the affairs of such cemetery, to direct and prescribe the manner of appointment of such successors in such trusteeship, to set apart and grant to such trustees and their successors personal property or money to constitute a fund to be used, either the principal or the interest thereof, or both, for the purpose of improving, maintaining in good order and condition, and adorning such cemetery or burial place, subject to and in accordance with the directions of the grantor or testator in such deed or will; but the lands so set apart, dedicated or devised, shall not in any case exceed the quantity limited by this act, nor shall the fund so set apart and granted as aforesaid by will, exceed ten per cent of the clear value in excess of the debts and liabilities, other than legacies, of the estate of the testator; nor shall the land, property or money set apart and devoted by deed or otherwise under this act to the purposes of a cemetery, as in this and the subsequent section provided, be exempt from levy and sale under execution, except as now or hereafter exempt by law. (Added by L. 1871, chap. 68.)

[Section 7 is re-enacted in § 57 of revision.]

§ 8. The executors, administrators or trustees of the estate of any deceased person may, upon the written authorization and direction thereto of all the surviving heirs, legatees, devisees and next of kin of the testator or intestate, executed in person or by their lawful attorneys or general guardians, set apart, to be used exclusively as a family cemetery or burial place for the dead, suitable lands of the testator or intestate, or purchase with funds of the estate under their control suitable lands for such purpose, appoint trustees to manage the same, and direct and prescribe the manner of appointment of their successors, set apart and pay to the trustees so appointed by them, from the funds of the estate under their control, personal property or money, or both, of the value and to an amount limited in the authorization and direction aforesaid, to constitute a fund to be used, either the principal or the interest thereof, or both, for the purpose of improving, maintaining in good order and condition, and adorning such cemetery or burial place, subject to and in accordance with the rules and directions contained in the written authorization and direction aforesaid; but the quantity

(Laws 1854, ch. 112; R. S., 8th ed., 1947.)

of land so set apart shall not exceed the limit prescribed in the foregoing section. (Added by L. 1871, chap. 68.)

[Section 8 is re-enacted without change of substance in § 57 of revision.]

§ 9. The trustees appointed in accordance with the provisions of section seven, or of section eight of this act, shall, before entering upon their duties as such trustees, file in the office of the clerk of the county in which the land set apart and dedicated for cemetery and burial purposes under section seven or section eight of this act is situated, their written acceptance of their appointment as such trustees, together with a copy of the deed or will, or written authorization and direction under which their appointment shall have been made, and together with a certificate signed by all the trustees who shall accept and agree to serve, and acknowledge before an officer authorized to take the acknowledgment of deeds, containing a description of the land so set apart, the title of the corporation thus proposed to be organized under this act, and the names of the trustees thereof; thereupon the said trustees and their successors shall be deemed legally incorporated, with all the rights and powers and subject to the liabilities of other corporations under this act; a certified copy of such certificate shall be evidence in all courts and places of the formation of such corporation. Said trustees and all successors thereof, shall before receiving the property, money and fund as herein provided for improving, maintaining and adorning the cemetery under their charge, execute to the surrogate of the county in which it is situated, a bond with sureties, approved by the surrogate, in the penal sum of twice the principal sum of the fund placed in their charge, conditioned for the faithful preservation and application thereof, according to the rules, directions or by-laws prescribed in the instrument under which their appointment shall have been made, and from time to time renew their bond or execute a new bond whenever required so to do by said surrogate; they shall, also, at least once in each year, and oftener if required by the surrogate, file with him their account of receipts and expenditures on account of the fund in their hands, together with vouchers for all disbursements by them; they shall have the general care and management of the cemetery under their charge, subject to the rules and directions contained in the instrument or instruments by or under which their appointment shall have been made, and shall be subject to removal for neglect of duty or malfeasance in

(Laws 1854, ch. 112; R. S., 8th ed., 1947.)

office in the same manner as trustees of other corporations. (Added by L. 1871, chap. 68.)

[The provision making a certified copy of the certificate of incorporation evidence is not re-enacted, as it is covered by § 9 of the Gen. Corp. L. The remainder of the section is re-enacted without change of substance in § 57 of revision.]

§ 10. Additional adjoining lands may be acquired by purchase by any private or family cemetery now or hereafter organized under the provisions of this act to an extent not to exceed three acres in all; but no additional lands so purchased or otherwise acquired shall be used for the purpose of burial, within three hundred feet of any dwelling, without the written consent of the owner or owners thereof. (Added by L. 1877, chap. 469.)

[Section 10 is re-enacted in § 56 of revision as to private cemetery corporations without change of substance, but not re-enacted as to family cemetery corporations.]

[Section 11 is not repealed.]

(L. 1855, ch. 425; R. S., 8th ed., 2015.)

Section 1. Any ten or more persons of full age, citizens of the United States, and a majority of whom shall be citizens of this state, who shall desire to form a county or town agricultural society in any county, city or village in this state, may make, sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of such society is to be conducted, a certificate in writing wherein shall be stated the name and title whereby such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the name of such trustees, directors or managers thereof for the first year of its existence. If any such certificate shall fix the period of the existence of any corporation or society formed under this act, such corporation or society may, at any time within three years before the expiration of such period, extend the term of its existence beyond the time specified in such original certificate or in any certificate of extension of its corporate existence, by the consent of the stockholder owning two-thirds in amount of its capital stock, or if not a stock corporation, by the consent of two thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed; and the officer with whom the same may be filed shall there-

(Laws 1855, ch. 425; R. S., 8th ed., 2015.)

upon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the record of the original certificate, if recorded, and thereupon the term of existence of such corporation or society shall be extended as designated in such certificate, for a term not exceeding the term for which it was incorporated in the first instance. (As amended by L. 1891, chap. 10.)

[The provisions of § 1, specifying the number of incorporators and the contents of the certificate of incorporation are re-enacted without change of substance in § 140 of revision. The provision specifying the qualifications of incorporators is not re-enacted, as it is already covered by § 4 of the Gen. Corp. L., while that portion stating where the certificate of incorporation shall be filed is covered by § 5 of the Gen. Corp. L. The remainder of the section is not re-enacted, as it is already covered by § 32 of the Gen. Corp. L.]

§ 2. Upon filing the certificate as aforesaid, the persons, who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, and by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law, capable of suing and being sued, and they and their successors may have and use a common seal and may change and alter the same at pleasure, and they and their successors, by their corporate name, shall in law be capable of taking and securing, hiring, leasing and underletting, purchasing and holding real estate for the purposes of their incorporation and for no other purpose, to a sum not exceeding the sum of thirty thousand dollars in value, and personal estate for like purposes to an amount not exceeding ten thousand dollars, and to make by-laws for the management of its affairs, not inconsistent with the laws of this state or of the United States, provided that no more property be exempt from taxation than is now allowed in the general law authorizing the incorporation of county and town agricultural societies. (Thus amended by L. 1881, chap. 207.)

[Section 2 is not re-enacted. The provision specifying the powers of the corporation is covered by § 11 of the Gen. Corp. L., while the provision specifying the amount of real and personal property the corporation may hold is entirely omitted.]

§ 3. Any person who shall pay into the treasury of said society such sum as the by-laws of said society shall require, of not less

(Laws 1855, ch. 425; R. S., 8th ed., 2016.)

than ten dollars, may be a life member of said society, with all the privileges of an annual member thereof.

[Omitted, as being covered by the power to make by-laws regulating admission of members, etc. See § 8 of revision.]

§ 4. Any person who shall pay into the treasury of said society annually a sum not less than fifty cents, as prescribed by the by-laws of said society, shall be a stockholder and entitled to all the privileges and immunities thereof, or any society may by a majority vote, and by filing a certificate to that effect in the county clerk's office of the county where it is located, divide the amount of real and personal property authorized by section two of this act into shares of not less than ten dollars each, and sell the said shares at not less than the par value thereof, to raise money for the purposes contemplated in this act, or may cause books to be opened by said directors for the subscription of capital stock to said corporation at such time and places and in such manner as they may deem best. The capital stock of said corporation to be subscribed for under this section shall not exceed forty thousand dollars, and shall not be less than five thousand dollars, and shall be divided into shares of ten dollars each, and shall be paid in cash by the subscribers thereto at the time of such subscription; and the moneys so raised shall be subject to the provisions of section two of this act, and any person owning one or more of said shares of stock shall be a member and stockholder of said society, and may have one vote for each share so owned by him at any stockholders' meeting of said society. Dividends may be made from the earnings of said society and paid to the owners of said stock to the amount of twenty per centum per annum, but no such dividend shall be made when the society is in debt. (Thus amended by L. 1881, chap. 207, superseding L. 1876, chap. 346.)

[The provision authorizing the corporation to divide its property into shares and sell the shares is not re-enacted. By § 144 of revision, the corporation is authorized to issue stock, but on doing so, the corporation becomes subject to the Stock. Corp. L., and not to article one of this chapter.]

§ 5. The officers of said society shall consist of a president, and at least one vice-president, a secretary, a treasurer, and not less than six or more than fifteen directors. The president, vice-president, treasurer and secretary shall be elected annually, and the first year be a full board of directors. The board of directors shall be divided by lot into three classes; the first class to serve

(Laws 1855, ch. 425; R. S., 8th ed., 2016.)

one year, the second class two years, and the third class three years; and at the expiration of each term there shall be elected one-third of the directors for three years, and all vacancies that may occur to be filled only for the term made vacant. The election of all officers shall be by ballot of the stockholders or members, who shall have been such, not less than thirty days prior to such election. The board of managers shall consist of the president, the first vice-president, secretary, treasurer and directors, a majority of whom shall constitute a quorum for the transaction of business; and it shall be the duty of said officers to so manage the property and concerns of the said society, as will best promote the interests of agriculture, horticulture and mechanic arts; and they shall hold annual fairs and exhibitions, and distribute premiums to the best and most meritorous exhibitors in their several departments. (Thus amended by L. 1884, chap. 436.)

[The provisions relating to the management of the property and to the holding of fairs and distribution of premiums are re-enacted without change of substance in § 142 of revision. The provisions as to what officers the corporation may have is omitted as covered by § 8, authorizing the corporation to make by-laws on that subject. Section 5 makes the board of managers consist of the president, etc., and the directors. This is omitted. The directors become the board of managers under the provisions of § 29 of the Gen. Corp. L.]

§ 6. There shall be but one county society in any one county in this state; nor shall there be more than one society in any town therein; but any two, or three or four towns may join and organize a society for the same, but the organization of such society by an association of towns shall not be held to prohibit the organization of any town society, or either one of such town societies. (Thus amended by L. 1881, chap. 388.)

[Section 6 is re-enacted without change of substance in § 141 of revision.]

§ 7. The said societies may, in case the uses and convenience thereof so require, upon application to the supreme court of the district wherein said county at the time of such application shall be situated, obtain the requisite order and power to sell or mortgage, from time to time, the whole or any part or parts of its real estate; the granting of such order to be in the discretion of the court, and such application to be made only when authorized by said society, at a regular or special meeting thereof, by a vote of not less than two-thirds of the legal members of said society present at such meeting, and notice of the

(Laws 1855, ch. 425; R. S., 8th ed., 2017.)

intention to vote for such application having been published in three of the newspapers printed in said county once a week for two weeks preceding such meeting, and having been sent by mail to each member addressed to him at his last known place of residence, at least ten days prior to said meeting. (As am. by L. 1894, ch. 139.)

[Section 13 authorizes the court to permit sale or mortgage of real property of membership corporation on the concurring vote of two-thirds of the directors.]

§ 8. The officers of any society organized under the provisions of this act, shall be jointly and severally liable for all debts due from said society, contracted while they are officers thereof, provided a suit for the collection of the same be brought within one year after the debt shall become due and payable.

§ 9. The president, secretary and treasurer of said society shall annually, on or before the first day of February, make out and transmit to the secretary of the state agricultural society at Albany, a statement of the transactions of said society for the year, giving a full detail of the receipts and expenditures thereof, with a list of premiums awarded and to whom and for what purpose, and the same shall be subscribed and sworn to by said officers, before some person authorized to take the acknowledgment of deeds, as being a just and true statement within the spirit, true intent, and meaning of this act.

[The liability of the officers provided by § 8 is covered by § 11 of revision. Section 9 is re-enacted without change of substance in § 145 of revision.]

§ 10. Every society formed under this act shall possess the power and be subject to the provisions and restrictions contained in the third title of the eighteenth chapter of the Revised Statutes; and shall also possess the power of fixing and determining the place at which the annual fairs and exhibitions of said society shall be held, by a two-thirds vote of the members present voting in the affirmative at any regular meeting of said society, or at any special meeting thereof duly called, notice of the time and place of holding the same having been duly published for four weeks immediately preceding said meeting in two newspapers printed in said county. (Thus amended L. 1884, chap. 340.)

[The provision relating to the powers and restrictions is covered by § 11 of Gen. Corp. L. The power granted in the remainder of the section is included in the general power of the members to make by-laws, and is omitted here.]

(L. 1857, ch. 302, amends L. 1848, ch. 319.)
(L. 1857, ch. 531, amends L. 1855, ch. 425.)

(Laws 1859, ch. 36; R. S., 8th ed., 2017.)

Section 1. The board of managers or executive committee of any agricultural or horticultural society of this state is hereby authorized to appoint as many citizens of this state policemen as shall be necessary for their exhibitions, whose duty it shall be to preserve order within and around the grounds of said society, to protect the property within said grounds, to eject all persons who shall be improperly within the grounds of said society, or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fee or observe the rules prescribed by the society. Said policemen shall have the same power, during the time said exhibition shall continue, that a constable may have by law, in serving criminal process and making arrests. (As amended by L. 1893, chap. 602.)

§ 2. Any justice of the peace of the county in which said grounds are situate, may, while on said grounds, hold a court of special sessions having the same duties, powers and jurisdiction over offenses committed on said grounds and within two hundred yards beyond the boundaries thereof, as is had by a court of special sessions of a town of said county over offenses committed in that town. (As am. by L. 1893, ch. 603.)

§ 3. All fines and penalties received by a justice of the peace under the provisions of the foregoing section shall before the close of the fair and exhibition at which the same shall be received, be handed over by him to said society for its use and benefit, together with a report in writing of all proceedings had by him during said fair and exhibition; said report shall be in all respects the same as the usual account rendered for services in criminal proceedings by a justice of the peace of a town to the board of town auditors thereof; and he shall receive as his compensation therefor his legal fees out of the treasury of said society. (As am. by L. 1893, ch. 602.)

§ 4. The justice shall include in his annual report to the board the offenses committed and the proceedings had and the disposition made by him of all said fines and penalties. (As am. by L. 1893, ch. 602.)

§ 5. The justice shall enter in his regular criminal docket, kept and used by him in his said town, the full proceedings of all matters coming before him under this act, stating each case separately; and the record of said full proceedings shall be kept open for public inspection on said grounds during said fair and exhibition. (As am. by L. 1893, ch. 602.)

§ 6. This act shall take effect immediately.

[This chapter is re-enacted without change of substance in § 143 of revision.]

(L. 1860, ch. 163; R. S., 8th ed., 1939.)

Section 1. It shall be lawful for the trustees of any rural cemetery association organized under the act, entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to fund any outstanding indebtedness, for lands purchased for cemetery purposes, or for moneys actually expended in preserving, improving and embellishing the cemetery grounds, and to provide for the payment of such funded debt, in the manner hereinafter provided.

§ 2. Whenever the trustees, by a vote of all the trustees elected, shall desire to fund such indebtedness, it shall be their duty to ascertain the amount of obligations outstanding for the purchase-money of the lands acquired by the association, and the amount of obligations for preserving, improving and embellishing the cemetery grounds, and thereupon, with the consent of any creditor to whom such indebtedness, or any part thereof, may be due and owing, the said trustees shall have power to issue certificates for the amount thereof, in sums of one hundred dollars each, payable at such time and drawing such interest as may be agreed upon, in satisfaction and discharge of such indebtedness, or such part thereof, but no certificate shall be issued for any fractional part of one hundred dollars, nor drawing any higher rate of interest than seven per cent. per annum. The said certificates shall be sealed with the corporate seal of the association, and signed by the president and treasurer thereof. They shall be deemed personal property, and shall be transferable by delivery, unless otherwise provided on the face thereof, and an exact and true account of the number and amount of the said certificates, the persons to whom issued, the time of maturity and the rate of interest, shall be accurately entered on the books of the association. Certificates issued by any rural cemetery association prior to April fifth, one thousand eight hundred and sixty, shall be as valid, and the holders, in addition to the rights secured to them by such certificates, shall have the same rights, powers and privileges as though such certificates were issued after said April fifth, one thousand eight hundred and sixty. (Thus amended by L. 1884, chap. 433.)

§ 3. The trustees shall keep a distinct and separate account in the cemetery books of the certificates issued for the purchase-money of lands acquired by the association, and the certificates issued for debts incurred in improving and embellishing the cemetery grounds; and it shall be their duty, at least twice in each year, to apply the proceeds of all sales of lots and plats, in redemption of such certificates, severally, in the manner provided by the seventh section of the act hereby amended, and

(Laws 1860, ch. 163; R. S., 8th ed., 1940.)

upon such redemption, they shall cancel the same on their books and destroy the certificates returned. Until the said certificates shall be redeemed, the holders of the same shall be entitled to vote at all elections and business meetings of the corporation, one vote for each and every certificate of one hundred dollars, held by such voter.

§ 4. Nothing in this act contained shall be construed to create a lien upon lots or plats belonging to individual proprietors, within the cemetery limits, nor any other or greater liability against the association or trustees issuing said certificates, than may be necessary to enforce the faithful application of the proceeds of sales, in the redemption thereof, in the manner aforesaid.

[This chapter is re-enacted in § 54 of revision with the following changes. A majority of the directors may fund. The amount of the certificates is changed from $100 to $25.

The certificate must be signed by the president and secretary instead of president and treasurer. That portion of § 2, describing the certificates as personal property is not re-enacted, as it is already covered by the Statutory Const. L., § 4.]

(Laws 1860, chap. 242; R. S., 8th ed., 2044.)

Section 1. Any five or more persons of full age, citizens of the United States, may associate, pursuant to "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April twelfth, eighteen hundred and forty-eight, and the acts amendatory thereof, for the purpose of promoting and cultivating the fine arts, by establishing a gallery or collection of pictures and statuary, including other objects of the fine arts; and when associated, they shall be subject to the provisions of the aforesaid acts.

[Re-enacted in §§ 30 and 31 of revision without change in substance.]

§ 2. Any fine art association so formed, may be capable of taking, by gift, devise, bequest or purchase, and of holding, for the purpose of their incorporation, and for no other purpose, real or personal property, exceeding in value the amounts limited by the said act, provided a justice of the supreme court of the district in which the principal office of such association shall be located, shall from time to time allow the same by an order to be entered on the records of the court, which shall also specify the limits fixed by said justice.

[By § 12 of Gen. C. L., membership corporations may acquire property of the value of $3,000,000. The requirement of the consent of a justice of the Supreme Court to the acquisition of property is omitted.]

(Laws 1861, chap. 58; R. S., 8th ed., 1925.)

Section 1. It shall be lawful for the supreme court of this state, upon the application of three-fourths of the trustees of any benevolent, charitable, scientific, missionary society or orphan asylum incorporated by law, in case it shall deem it proper, to make an order for the leasing or sale and conveyance of any real estate belonging to such corporation, and to direct the application of the moneys arising therefrom by the said corporation to such uses as to the said court shall seem to be most for the interest of the corporation to which the real estate so leased or conveyed belongs.

[This section allows court to order lease, etc., on application of three-fourths of the trutees. By § 13 of revision the real property can not be leased in any case without the concurring vote of two-thirds of the directors, nor for a term of more than three years, without leave of the court.]

(Laws 1861, ch. 94, amends L. 1847, ch. 133.)
(Laws 1861, ch. 95, amends L. 1855, ch. 425.)
(Laws 1861, ch. 239, amends L. 1848, ch. 319.)

(L. 1862, ch. 284; R. S., 8th ed., 2017.)

Section 1. In addition to the powers now vested by statute in the board of managers of any agricultural or horticultural association, the officers of such association shall have power to regulate and prevent all kinds of theatrical, circus or mountebank exhibitions and shows, as well as all huckstering or traffic in fruits, goods, wares and merchandise of whatever description, for gain, on the fair days, and within a distance of two hundred yards of the fair grounds of said association, if in the opinion of said officers, the same shall obstruct or in any way interfere with the free and uninterrupted use of the highway around and approaching such fair grounds; and the police employed by any such association shall possess the same power for a space of two hundred yards from said grounds, as is now vested in them by law within said grounds and be under the same control of the officers of the association within that space; and the same fines and penalties shall be incurred for any violation of the rules and regulations of said officers of any such association within two hundred yards of the fair grounds, as is now by law incurred for any violation of the rules and regulations within the grounds of any such association.

[This chapter is re-enacted without change of substance in § 143 of revision.]

(Laws 1862, ch. 302, amends L. 1848, ch. 319.)

(Laws 1864, chap. 419; R. S., 8th ed., 1925.)

Section 1. No moneys shall be paid from the treasury of this state pursuant to any act of the legislature making appropriation to any hospital, orphan asylum, benevolent association, educational, scientific, charitable, or other similar institution not under control of the state, until the president and secretary, or the managers of such institution, shall have made a report to the comptroller of the operations, purposes, financial condition, expenditures and management of such institution. The said report shall bear date on the first day of October, in each year, and shall include the details of the action of the managers for the entire year previous, and particularly of the disposition of moneys appropriated by the legislature for the maintenance of said institution, and shall be verified by the affidavit of the officers making the same. It shall be the duty of the comptroller to withhold moneys appropriated for the benefit of any such hospital, asylum, association or institution, the managers of which shall not have complied with this requirement; and he shall transmit such reports, or a copy of them, to the legislature, together with his annual report.

[Re-enacted in § 17 of revision without change of substance, and applied to all membership corporations.]

(Laws 1865, chap. 368; R. S., 8th ed., 2021.)

Section 1. Any five or more persons of full age, citizens of the United States, a majority of whom shall be also citizens of this state, who shall desire to associate themselves for social, temperance, benefit, gymnastic, athletic, military drill, musical, yachting, hunting, fishing, batting or lawful sporting purposes, may make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the office of such society shall be situated, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and object of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence; but such certificate shall not be filed, unless by the written consent and approbation of one of the justices of the supreme court of the district in which the principal office of such company or association shall be located, to be indorsed on such certificate; but nothing in this act contained shall authorize the incorporation of any society or club for any purpose,

(Laws 1865, ch. 368; R. S., 8th ed., 2022.)

repugnant to any statute of this state, or prohibited thereby. (Thus amended by L. 1865, chap. 668, and L. 1871, chap. 705.)

[Re-enacted substantially in §§ 30-31 of revision.]

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and may alter and change the same at pleasure; and they and their successors by their corporate name shall in law, be capable of taking, receiving, purchasing, leasing and holding real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of five hundred thousand dollars in value, exclusive of the buildings and improvements thereon, and personal estate for like purposes, to an amount not exceeding the sum of one hundred and fifty thousand dollars in value, exclusive of the buildings and improvements on its said real estate and the furnishing of its club-house, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars; to make and adopt a constitution, by-laws, rules and regulations for the government of said corporation, and for the admission, voluntary withdrawal, censure, suspension and expulsion of its members, for the establishing and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safe-keeping of its property, and from time to time to alter, modify or change such constitution, by-laws, rules and regulations; provided, however, that no constitution, by-laws, rules or regulations shall be made or adopted by said corporation which shall be inconsistent with the Constitution and laws of the United States or this state. The by-laws of any society or club for yachting purposes may provide that the qualified voters of such society or club be limited to the owners of yachts in such manner that the owners of each yacht shall, together, cast but one vote in the meetings of such society or club, and in the election of its officers, trustees, directors or managers. (Thus amended by L. 1877, chap. 380.)

[The provision that on filing certificate the corporation is formed is in § 31 of revision. The general powers of the corporation are in Gen. Corp. L., § 11. By § 12 of Gen-

(Laws 1865, ch. 368; R. S., 8th ed., 2022.)

Corp. L., a membership corporation can hold property of the value of $3,000,000, the clear annual income of which does not exceed $500,000. The power to make by laws for various purposes is in § 11, Gen. Corp. Law, and § 8 of Membership Corp. Law. The provisions in relation to yachting clubs is re-enacted in § 8 of revision, without change in substance.]

§ 3. The society so incorporated may elect, from its members, its trustees, directors or managers; and the directors, trustees or managers so elected may divide the whole number of trustees, directors or managers into classes, so that not less than one-fourth of their number shall be elected annually after the first organization of any board of such trustees, directors or managers. Such elections may be held at such time and place, and in such manner as may be specified in the by-laws; and such board shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society. The number of trustees in any corporation organized under this act may be increased to not more than twenty-one or diminished to not less than three, as follows: The existing trustees of any such corporation, or a majority of them, shall make and sign a certificate, declaring how many trustees the corporation shall thereafter have, and stating the names of such trustees for the present time, which certificate shall be acknowledged by the trustees signing the same, or proved by a subscribing witness, and shall be filed in the office of the clerk of the county where the original certificate of incorporation was filed, and a duplicate or transcript thereof duly certified under the official seal of such clerk, filed in the office of the secretary of state; and from and after the filing of such certificate and duplicate or transcript, the trustees of such corporation shall be deemed increased to the number therein stated, and the persons so named therein shall be trustees until a new election of trustees shall be had according to the said act, and the constitution, by-laws or regulations of such corporation. (Thus amended by L. 1885, chap. 66, superseding L. 1867, chap. 799, and L. 1873, chap. 698.)

[Section 10 of revision provides that the directors shall be elected from among the members. Section 8 of the revision authorizes the by-laws to provide for the classification of directors so that not less than one-fifth shall be elected annually. Gen. Corp. Law, § 29, fixes a majority of the directors as a quorum,

(Laws 1865, ch. 368; R. S., 8th ed., 2023.)

and also provides that the directors shall have the general management of the corporation. Section 8 of revision provides that the by-laws may prescribe the method of filling vacancies. This section allows the trustees to increase their number to twenty-one or diminish it to three, while § 10 of revision only allows the change to be made by a majority vote of the members at an annual meeting, and the number may be increased to not more than thirty or diminished to not less than three.]

§ 4. In case it shall at any time happen that an election of trustees, directors or managers shall not be made on the day designated by the by-laws, said society, for that cause, shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors or managers, in such manner as may be directed by the by-laws of such society.

[Fully covered by §§ 23-26 of Gen. C. L., which require the directors to call and conduct a special election in such a case.]

§ 5. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state.

[Gen. C. L., § 6.]

[Section 6. Take property by devise. Not repealed.]

§ 7. The trustees of any company or corporation organized under the provisions of this act, shall be jointly and severally liable for all debts due from said company or corporation, contracted while they are trustees, provided said debts are payable within one year from the time they shall have been contracted, and provided a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

[Re-enacted in § 11 of revision, with the additional condition, that execution against the corporation be returned unsatisfied and action be brought against the directors within one year after such return.]

§ 8. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file

(Laws 1865, ch. 368; R. S., 8th ed., 2023.)

in the county clerk's office where the original certificate is filed a certificate under their hands, stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file.

[Visitation by supreme court is retained in § 16 of revision. The provision requiring the filing of annual report is omitted but § 16 of revision provides for the filing of an inventory on order of supreme court, where it appears to the court by verified petition that there has been mismanagement by the directors.]

§ 9. Each corporation formed under this act shall possess the general powers conferred by and be subject to the provisions and restrictions of the third title of the eighteenth chapter of the first part of the revised statutes (except that each corporation so formed shall have the power to issue its stocks and bonds, or either, to an amount equal to the value of its real estate, provided, however, that prior to any such issue the value of said real estate shall be appraised on oath by three freeholders of the county in which such real estate is situated, approved by the county judge, and their appraisal filed in the county clerk's office, and in the principal office of said corporation, and for all issued in excess of said appraised value the officers, trustees directors or managers issuing the same shall be jointly and severally liable). (Thus amended by L. 1877, chap. 380.)

[Section 11 of the General Corp. L prescribes the general powers of all corporations. By § 13 of revision, the real property of a membership corporation can be sold or mortgaged only on the concurring vote of two-thirds of the directors and leave of the court. Such section also provides that a mortgage may be so authorized to secure the payment of bonds issued to different persons. Section 8 of revision provides that the by-laws may regulate the participation in the affairs of the corporation to which bondholders shall be entitled.]

[Section 10. Power to repeal.] (Omitted.)

§ 11. It shall be lawful for any corporation duly created and organized pursuant to the provisions of this act in its by-laws to provide and determine what number of its members shall constitute a quorum for the transaction of business at its stated and at its special meetings, and to prescribe and determine the term

(Laws 1865, ch. 368; R. S., 8th ed., 2024.)

and conditions upon and subject to which its members shall and shall not be eligible to vote at its meetings and be trustees, directors, managers and officers thereof. The provisions of this act shall be deemed to apply only to such corporations or associations as have been formed under said chapter three hundred and sixty-eight of the laws of one thousand eight hundred and sixty-five (as added by L. 1889. ch. 301).

[Re-enacted in § 8 of revision without change of substance.]

§ 12. It shall be lawful for any corporation duly created and organized pursuant to the provisions of this act in its by-laws to provide and determine what number of its members, not less than one-third, shall constitute a quorum for the transaction of business at its stated and at its special meetings, and to prescribe and determine the terms and conditions upon and subject to which its members shall and shall not be eligible to vote at its meetings and be trustees, directors, managers and officers thereof. The provisions of this act shall be deemed to apply only to such corporations or associations as have been formed under said chapter three hundred and sixty-eight of the laws of eighteen hundred and sixty-five. (Added as § 11 by L. 1887, chap. 645, and made § 12 by L. 1889, chap. 301.)

[Section 8 of revision without change of substance except that if one-third of the members is nine or more, any number not less than nine may be fixed as a quorum.]

(L. 1865, ch. 668, amends L. 1865, ch. 368.)

(L. 1866, ch. 273; R. S., 8th ed., 2058.)

Section 1. Any number of persons residing in this state, not less than three, who shall desire to form an association for the purpose of erecting a monument or monuments, to perpetuate the memory of soldiers and sailors who served in the late war in defense of the Union, may meet at such places as they may agree, and appoint a chairman and secretary, by a vote of a majority of the persons present at the meeting, and proceed to form an association by determining upon a corporate name by which the association shall be called or known, by determining on the number of trustees to manage the concerns of the association, which shall not be less than six nor more than twelve, and may thereupon proceed to elect by ballot the number of trustees so determined upon. (Thus amended by L. 1888, chap. 299.)

[Re-enacted in § 120 of revision, without change in substance.]

(Laws 1866, ch. 273; R. S., 8th ed., 2059.)

§ 2. The chairman and secretary of the meeting shall, within six days after such meeting, make a written certificate and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such meeting shall have been held, which certificate shall state the names of the associates who attended such meeting, the corporate name of the association determined upon by a majority of persons who met, the number of trustees fixed on to manage the affairs of the association, the names of the trustees chosen at the meeting, which certificate the chairman and secretary of such meeting shall cause to be recorded in the clerk's office of the county in which the meeting was held, in a book to be appropriated for the recording of certificates of incorporation. (Thus amended by L. 1888, chap. 299.)

[Re-enacted in § 120 of revision, without change in substance, but simplified to conform to general scheme of incorporation.]

§ 3. Upon such certificate, duly acknowledged as aforesaid, being recorded, the association mentioned therein shall be deemed legally incorporated, and shall have and possess the general powers and privileges, and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of part first of the Revised Statutes, except that each subscriber shall be bound to pay only to the amount subscribed by him. The affairs and property of such association shall be managed by the trustees, who shall appoint from among their number a president, vice-president, secretary and a treasurer, who shall hold their places during the pleasure of the board of trustees; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office, and if a vacancy shall occur in said board of trustees or in any offices by death, resignation, refusal to act or otherwise of any trustee or officer of said board, the then remaining trustees, at any legal meeting of said trustees, shall and may, and they are hereby authorized and required, to elect and choose a fit person or persons to fill up and supply such vacancy or vacancies; provided, however, the then remaining members of said board of trustees shall have been notified that such vacancy or vacancies in such board or its officers will be then filled; and a majority of the then trustees shall be necessary to form a quorum for the transaction of business; and the services of said trustees and officers shall be gratuitous. (Thus amended by L. 1888, chap. 299.)

[Gen. Corp. L. § 11, prescribes the general powers of all corporations. Gen. Corp. L., § 29, povides that the directors

(Laws 1866, ch. 273; R. S., 8th ed., 2059.)

shall have the management of the affairs of the corporation and that a majority of the directors shall constitute a quorum. The remainder of this section is fully covered by § 8 of revision. authorizing the adoption of by-laws for various purposes.]

§ 4. Any association incorporated under this act, or the act hereby amended, may take by purchase or devise or otherwise, and hold within the county in which the certificate of its incorporation is recorded, not exceeding five acres of land, to be held and occupied exclusively for the erection of a suitable monument or monuments to perpetuate the memory of the soldiers and sailors of the town, city or county in which such monument or monuments shall be erected, who served during the late war in defense of the Union, and such association may erect such monument or monuments upon any public street, square or ground of any town, city or village, with the legal consent of the proper officers of such town, city or village, or may purchase or accept the donation of any lands suitable for that purpose; and may take and hold any property, real or personal, devised, bequeathed or given upon trust, to apply the same or the income or proceeds thereof, under the direction of the trustees of such association, for the improvement or embellishment of such monument or monuments, or the erection or preservation of any structures, fences or walks erected or to be erected upon the lands of such association, or for the repair, preservation, erection, or renewal of such monument or monuments, fence or other structure, in, around or upon said lands, or for planting and cultivating trees, shrubs, flowers or plants, in, around or upon any such lands, or for improving, or embellishing the same in any manner or form consistent with the design and purposes of the association, according to the terms of such grant, devise or bequest; but the annual income of such estate, over and above the amount that may be expended in the purchase of grounds and in the erection of said monument or monuments, and in inclosing, laying out and ornamenting the same, shall not exceed the sum of five thousand dollars. (Thus amended by L. 1888, chap. 299.)

[Re-enacted in § 121 of revision without change in substance except that the limitation as to amount of annual income is omitted as unnecessary.]

[Section 5. Property exempt from taxation. Not repealed.]

§ 6. A tax may be imposed, levied and collected on the taxable property in any town or city in which such monument or monuments may be erected, for the purpose of repairing or improving the same and the grounds thereof; such tax shall be imposed in

(Laws 1866, ch. 273; R. S., 8th ed., 2060.)

the manner prescribed by law for imposing general taxes in such town or city as are now authorized to be imposed. (Thus amended by L. 1888, chap. 299.)

[Re-enacted in § 122 of revision, without change in substance.]

§ 7. Any association heretofore incorporated under the original act, or which may be hereafter incorporated under this act, may take by gift or otherwise any lots or lands in any cemetery within the county in which the certificate of its incorporation is recorded, to be used and occupied exclusively for the burial of honorably discharged soldiers who served in the late war in defense of the Union, and for the erection of suitable monuments or memorials therein. (Thus amended by L. 1888, chap. 299.)

[Re-enacted in § 121 of revision, without change in substance.]

§ 8. Any association may erect, as the monument contemplated by this act, a memorial hall or building, and may take and hold the real estate necessary or proper for that purpose, not to exceed in amount the sum of twenty-five thousand dollars, and the real estate held for the purposes of such memorial hall or building shall not be exempted from taxation. (Thus amended by L. 1888, chap. 299.)

[Re-enacted in § 120 of revision, but the limitation as to amount of property is omitted. The provision that the hall shall be exempt from taxtion, is omitted. The real property of such a corporation used exclusively for non-business purposes, is exempt under L. 1893, ch. 498.]

(L. 1866, ch. 457, amends L. 1865, ch. 368.)
(L. 1867, ch. 799, amends L. 1865, ch. 368.)

(L. 1868, ch. 402; R. S., 8th ed., 1940.)

Section 1. The trustees of any rural cemetery association incorporated under the laws of this state are hereby authorized to levy a tax upon the lot owners in said cemetery in proportion to the value of said lots respectively, when sold, for the purpose of improving the grounds of said cemetery, and repairing and rebuilding the fences around the same, for the purpose of constructing a receiving vault for the common use and benefit of said lot owners, whenever the funds applicable to such purposes shall be insufficient to make the necessary repairs, improvements or construction. (Thus amended by L. 1888, chap. 415, superseding L. 1877, chap. 426.)

(Laws 1868, ch. 402; R. S., 8th ed., 1941.)

§ 2. Such tax shall not be levied except upon the written consent of two-thirds of the lot owners in the cemeteries to which the proposed tax is to be applied, or upon the vote of a majority of all the lot owners in favor of a tax for the purposes herein specified, at an annual or at a special meeting called by the trustees for the purpose of taking such vote, upon the same notice required by law for annual meetings; except that at an annual meeting, upon a vote of a majority of lot owners, present and voting, the trustees are authorized to levy a tax upon each of the lot owners, not exceeding one dollar for each lot owned by the several lot owners in such cemetery. The proceeds of such tax to be applied to the purposes herein specified, and to no other purpose whatever. (Thus amended by L. 1879, chap. 411.)

§ 3. The tax hereby authorized shall be such sum per lot as the trustees shall determine, but shall not exceed the sum of five dollars a lot in any one year on ordinary priced full-sized lots, and proportionally more on more valuable ones; and the tax so levied shall be collected by the school district collector of the school district in which the cemetery is situated, and paid over to the treasurer of said cemetery. In case the said school collectors shall neglect or refuse to collect such tax, a majority of the trustees of such cemetery may appoint some suitable and proper person a resident of said school district, who shall give his bond as is now required by law for a collector of school taxes, and whose term of office shall be for one year to collect such tax, or any uncollected portion thereof, and may by warrant under the hands of the secretary and president of such cemetery association authorize such person, duly appointed to collect the same, in the same manner and with the same powers as are given to school collectors in the collection of school taxes. Such appointed collector shall receive as his compensation the same fees as are now by law allowed to school collectors in the collection of school taxes and shall be subject to the same liability in case of neglect or misconduct. (Thus amended by L. 1888, chap. 415, superseding L. 1881, chap. 412.)

§ 4. The provisions of this act shall not apply to cities, nor to any joint-stock cemetery association or corporation.

[This chapter is re-enacted in § 52 of revision with the following changes: The directors are authorized to levy a tax, annually, not exceeding one dollar on each lot, and the vote of a majority of the lot owners is not required. The treasurer of the corporation instead of the collector of school taxes is authorized to collect taxes levied on the lot owners. No fee is given treasurer for collection of tax.]

(Laws 1869, ch. 629; R. S., 8th ed., 2024.)

Section 1. It shall be lawful for the supreme court of this state, upon the application of any society, association or corporation, now incorporated or hereafter incorporated under and by virtue of the act entitled "An act for the incorporation of societies or clubs for certain social and recreative purposes," passed April eleventh, eighteen hundred and sixty-five, and the acts amendatory thereof, or under and by virtue of chapter two hundred and sixty-seven of the laws of eighteen hundred and seventy-five, entitled "An act for the incorporation of societies or clubs for certain lawful purposes," and of the several acts extending and amending said act, in case it shall deem it proper to make an order for the mortgaging of any real or personal estate belonging to any such corporation, and to direct the application of the moneys arising therefrom by the said corporation; and upon like application may confirm any bond or mortgage heretofore given by any such corporation, and thereupon such bond and mortgage shall be a legal obligation and a valid lien upon the premises or property covered thereby from the date of record thereof. (Thus amended by L. 1884, chap. 68.)

[Section 13 of revision, authorizing the mortgaging of the real property of a membership corporation on the concurring vote of two-thirds of the directors and leave of the court. The same section also authorizes the court to confirm a mortgage originally given without leave of the court.]

(L. 1869, ch. 708, amends L. 1847, ch. 133.)

(L. 1870, ch. 527; R. S., 8th ed., 1941.)

Section 1. It shall be lawful for any cemetery association heretofore or hereafter formed under and in pursuance of the act, entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to accept of a conveyance to such association of any grounds owned or held by any religious society or by trustees, for burial purposes, whenever such society shall authorize the proper officer or officers to convey the same, and in cases where such ground is held by trustees, whenever all the trustees living or residing in this state shall unite in such conveyance; and such conveyance, when fully executed and delivered, shall be deemed and held valid to convey all the interest of such society, and of the said trustees, in such grounds to the association therein named.

§ 2. The association named in any conveyance so as aforesaid authorized shall take, hold and control the grounds so conveyed, subject, however, to any and all burdens, trusts and conditions

(Laws 1870, ch. 527; R. S., 8th ed., 1941.)

incumbent upon its grantors, and shall perform all such duties, trusts and conditions.

§ 3. Lots which shall have been sold or granted in such burial grounds, prior to such conveyance, shall not be taken from the grantees thereof, nor their interest therein divested by such conveyance, nor shall any grave be disturbed or monument or remains removed without the consent of the lot owner or of the heirs of the persons whose remains are intended to be removed.

[Sections 1-3 are re-enacted without change of substance in § 45 of revision.]

§ 4. The grounds authorized to be conveyed by this act shall be surveyed and mapped by the association receiving them, and the portion or portions thereof unoccupied or undisposed of may be subdivided into lots and plots and sold or granted by the trustees of such association, in the same manner as the other grounds and lots of such association. And the moneys received on the sale of such lots shall be expended in payment of expenses, and improving and embellishing the grounds of the association, including the grounds conveyed under this act, in the discretion of the trustees thereof.

[Section 4 is not re-enacted in form, but § 46 of revision serves as a substitute for it.]

(L. 1871, ch. 68, amends L. 1854, ch. 112.)

(L. 1871, ch. 378; R. S., 8th ed., 1942.)

Section 1. Whenever any person or persons owning or having in possession a burial lot in any incorporated cemetery shall have vacated the same by a removal of all the dead buried on said lot, and shall have left said lot in a broken and uncultivated condition for the period of one month or more from the date of such removal, it shall then be lawful for the trustees of such incorporated cemetery to enter on said vacated lot for the purpose of improving and beautifying the same, and grade, cut, fill or otherwise change the surface of the same, as shall, in their judgment, be for the improvement of said lot and the general improvement of such cemetery grounds, not reducing, however, the area of said lot. The cost and expense thereof shall be chargeable to said lot, in a sum not exceeding ten dollars, and not against the late owners or persons having had in possession said lot.

§ 2. If the person or persons owning said vacant lot shall not, within six months after such expense shall have been incurred, as provided by the first section of this act, repay to said trustees the sum so expended and authorized, it shall then be lawful for such trustees to sell said lot to pay the cost of such improvement,

(Laws 1871, ch. 378; R. S., 8th ed., 1942.)

at public vendue on said cemetery grounds, previous notice of such sale having been posted at the main entrance of said cemetery at least ten days prior to the day of such sale, and shall pay any surplus arising from such sale, on demand, to the person or persons, or either of them, last in occupation of said lot.

[This chapter is re-enacted without change of substance in § 53 of revision.]

(L. 1871, ch. 705, amends L. 1865, ch. 368.)

(L. 1871, ch. 875; R. S., 8th ed., 2047.)

Section 1. The workingmen of the state of New York may incorporate themselves into unions and societies under and by virtue of the provisions of the act of the legislature of this state, passed April twelfth, eighteen hundred and forty-eight, entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," and the several acts amendatory thereof; and the provisions and restrictions of the said acts shall apply to the formation and incorporation of said unions and societies in all respects.

[Such corporations may hereafter be formed under §§ 30-31 of revision.]

(L. 1872, ch. 104; R. S., 8th ed., 1926.)

Section 1. No trustee or director of any charitable or benevolent institution, organized either under the laws of this state or by virtue of a special charter shall receive, directly or indirectly, any salary or emolument from said institution, nor shall any salary or compensation whatever be voted or allowed by the trustees or directors of any institutions organized for charitable or benevolent purposes, to any trustee or director of said institution for services, either as trustee or director, or in any other capacity.

[By § 12 of revision the officers of a membership corporation hereafter incorporated are prohibited from receiving compensation, unless authorized by the by-laws. After January 1, 1896, the section is made to apply to corporations heretofore incorporated.]

(L. 1872, ch. 116, amends L. 1855, ch. 425.)
(L. 1872, ch. 209, amends L. 1848, ch. 319.)
(L. 1872, ch. 649, amends L. 1848, ch. 319.)
(L. 1873, ch. 361, amends L. 1847, ch. 133.)

(L. 1873, ch. 397; R. S., 8th ed., 2055.)

Section 1. Any ten or more persons, residents of this state, who shall desire to associate themselves together in a corporate capacity as a fire, hose, protective or hook and ladder company, may

(Laws 1873, ch. 397; R. S., 8th ed., 2055.)

make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state and also in the office of the clerk of the county in which the office of the proposed company shall be situated, a certificate in writing in which shall be stated the name or title by which said company shall be known in law, the particular business and object of said incorporation, the name of the incorporated city or village, or the town in which said company proposes to act, the number of trustees, directors, or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence, and the number of years said company shall exist, not to exceed fifty years; but such certificate shall not be filed unless there shall be annexed thereto a certified copy of a resolution of the board of trustees of the village, or the approval of the mayor of the city in which said company is situate, or if said company be not located in an incorporated city or village, then a resolution of the board of town auditors of the town, consenting to such incorporation, provided that such corporations shall only engage in or conduct such business as properly belongs to fire, hose, protective or hook and ladder companies, and only in the incorporated city or village, or the town named in the aforesaid certificate; and provided further, that in taking part in the prevention and extinguishment of fires in cities and villages, said corporations shall be under the control and subject to the orders of the city or village authorities or officers, who by law have or may have control over the prevention or extinguishment of fires in incorporated cities or villages in which said corporation shall conduct their business. (Thus am. by L. 1890, ch. 27.)

[Sections 65 and 66 of revision without change in substance.]

§ 2. Upon filing a certificate as aforesaid, together with such resolution of approval, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be capable in law of suing and being sued; and they and their successors by their corporate name shall, in law, be capable of taking, receiving, holding and purchasing real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of fifty thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of fifty thousand dollars in value; to make

(Laws 1873, ch. 397; R. S., 8th ed., 2056.)

by-laws for the management of its affairs not inconsistent with the constitution and laws of this state or of the United States, to elect and appoint the officers and agents of such company for the management of its business, and to allow them a suitable compensation, and to prescribe the qualifications of membership of said company.

[The provision that the corporation is formed on compliance with conditions is in § 65 of revision. The general powers of the corporation are prescribed by Gen. C. L., § 11. The power to hold property to the amount of $3,000,000 is in Gen. C. L., § 12.]

§ 3. The company so incorporated may annually elect from its members its trustees, directors or managers, at such time and place, and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said company, and a majority of whom shall be a quorum for the transaction of business. Whenever any vacancy shall happen among said trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in the manner provided in the by-laws of said company.

[Gen. Corp. L., § 29, fixes the quorum of directors at a majority. The remainder of this section is covered by § 8 of revision.]

[Section 4. Failure to hold election. Repealed by Gen. C. L. of 1890.]

[Section 5. May take property by devise. Not repealed.]

§ 6. The trustees of any company or corporation organized under the provisions of this act shall be jointly and severally liable for all debts due from said company or corporation, contracted while they are trustees; provided said debts are payable within one year from the time they shall have been contracted; and provided further, that a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

[Section 11 of revision.]

§ 7. It shall be the duty of the trustees, directors or managers of all corporations formed under this act, or a majority of said trustees, directors or managers on or before the fifteenth day of January in each year, to make and file in the county clerk's office where the certificate of incorporation is filed, a certificate under their hands, stating the names of the trustees and officers of such corporation, with an inventory of the property and effects and liabilities thereof, with an affidavit of said trustees, directors or

(Laws 1873, ch. 397; R. S., 8th ed., 2056.)

managers of the truth of such certificate and inventory; and also a like affidavit that such corporation has not been engaged, directly or indirectly, in other business than such as is set forth in the certificate of incorporation.

[Omitted.]
[Sections 8 and 9 were repealed by Gen. C. L. of 1890.]
[Section 10 prescribes when act took effect.]
[Section 11. Exemption from taxation. Not repealed.]

(L. 1873, ch. 678, amends L. 1865, ch. 368.)
(L. 1874, ch. 35, amends L. 1865, ch. 368.)
(L. 1874, chap. 245; R. S., 8th ed., 1943,)

[Sections 1-3 are amendatory of L. 1847, ch. 133.]

§ 4. Every association incorporated under the act hereby amended may from time to time, by its trustees, make such rules and regulations as it shall deem proper for the care, management and protection of the cemetery lands and property; for the use, care and protection of all lots and plats and parts of lots therein; the conduct of persons while within the cemetery grounds; to exclude improper persons therefrom and improper assemblages therein; to regulate the dividing marks between the various lots and plats and parts of lots and plats, and their size, shape and location; to regulate the size of erections, and to forbid the erection of structures upon such lots or plats and parts of lots or plats; to prevent the burial within the cemetery of persons executed for crime; to prevent the burial on any lot or plat or part of any lot or plat of any person not entitled to such burial by section eleven of said act of April twenty-seven, eighteen hundred and forty-seven, hereby amended; to regulate and prevent disinterments; to prevent improper monuments, effigies, structures and inscriptions within the cemetery grounds, and to remove the same; and to regulate the introduction and growth of plants, trees and shrubs within the cemtery grounds. Such rules and regulations, when adopted, shall be binding upon all lot owners and persons visiting said cemetery grounds, and shall apply to all lots and parts of lots sold or hereafter to be sold. Such rules and regulations, when adopted, shall be plainly printed and publicly posted in the principal office of the association, and in such places upon the cemetery grounds as the trustees of the association shall by resolution prescribe.

[This section is re-enacted without change of substance in § 10 of revision.]

(Laws 1875, ch. 130; R. S., 8th ed., 1931.)

§ 1. Any five or more persons of full age, a majority of whom shall be citizens of and residents within this state, who shall desire to associate themselves together for the purpose of preventing cruelty to children, may make, sign and acknowledge before any person authorized to take acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of the society is to be conducted, a certificate in writing in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and names of the trustees, directors or managers of the society for the first year of its existence. But such certificate shall not be filed, unless the written consent and approbation thereof of one of the justices of the supreme court of the district in which the place of business or principal office of such society shall be located, be first indorsed on such certificate, after thirty days previous notice in writing by the proposed corporators to the New York society for the prevention of cruelty to children, of the time and place of application therefor and after hearing thereon had. No such certificate shall use or specify as the name or title of the society, the same or substantially the same as that of any previously incorporated society for the prevention of cruelty to children in this state. (As am. by L. 1894, ch. 105.)

[Re-enacted in § 70 of revision, with additional requirements as to approval of certificate by president of New York society for the prevention of cruelty to children.]

§ 2. Upon filing the certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such certificate, and as such shall have power,

1. To have perpetual succession by its corporate name.

2. To sue and be sued, complain and defend, in any court of law or equity.

3. To make and use a common seal, which may be affixed by making an impression directly on the paper, and alter the same at pleasure.

4. To appoint such officers, managers and agents as the business of the corporation may require.

5. To make by-laws not inconsistent with the laws of this state or of the United States, for the management of its property and the regulation of its affairs.

(Laws 1875, ch. 130; R. S., 8th ed., 1932.)

6. To contract and be contracted with.

7. To take and hold by gift, purchase, grant, devise or bequest any property, real or personal, and the same to dispose of at pleasure. But such corporation shall not, in its corporate capacity, hold real estate, the yearly income derived from which shall exceed the sum of fifty thousand dollars.

8. To exercise any corporate powers necessary to the exercise of the powers above enumerated and given.

[The provision that the corporation be formed on filing certificate is in § 70 of revision. The general powers of the corporation, including the power to hold property, are in §§ 11 and 12, Gen. Corp. L.]

§ 3. Any society so incorporated may prefer a compaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting children, and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken. Any such society may be appointed guardian of the person of any minor child during its minority by a court of record of this state or by a judge or justice thereof, and may receive and retain any child at its own expense upon commitment by a court or magistrate. (Thus amended by L. 1886, chap. 30.)

[Re-enacted in § 72 of revision, without change in substance.]

§ 4. All magistrates, constables, sheriffs and officers of police shall, as occasion may require, aid the society so incorporated, its officers, members and agents in the enforcement of all laws which now are or may hereafter be enacted, relating to or affecting children.

[Re-enacted in § 12 of revision, without change in substance.]

§ 5. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed as hereinabove provided, use or specify a name or style the same or substantially the same as that of any previously existing incorporated society in this state.

[Covered by § 6 of Gen. Corp. L.]

(Laws 1875, ch. 267; R. S., 8th ed., 2024.)

Section 1. Any five or more persons of full age, citizens of the United States, and a majority of whom are also citizens of this state, who desire to form themselves into a society or

(L. 1875, ch. 267; R. S., 8th ed., 2025.)

club for social, mutual benefit, benevolent, temperance, political, economic, patriotic, gymnastic, athletic, military drill, musical, dramatic, historical, literary, library, artistic, yachting, hunting, fishing, bathing or lawful sporting purposes, may sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and to file in the office of the secretary of state, and also in the office of the clerk of the county in which the office of such society or club shall be situated, a certificate, in writing, in which shall be stated the name or title by which such society shall be known in law; the particular business and object of such society or club; the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which the principal office of such society or club shall be located, be indorsed on such certificate; but nothing in this act contained shall authorize the incorporation of any society or club for any purpose repugnant to any statute of this state, or prohibited thereby. (Thus amended by L. 1876, chap. 53.)

[Re-enacted in §§ 30 and 31 of revision, without change of substance.]

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificates, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and may alter and change the same at pleasure; and they and their successors by their corporate name shall, in law, be capable of taking, receiving, purchasing, leasing and holding real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of five hundred thousand dollars in value, exclusive of the buildings and improvements thereon, and personal property for like purposes to an amount not exceeding the sum of one hundred and fifty thousand dollars in value, exclusive of the buildings and improvements on its said real estate and the furnishing of its club-house, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars; to make and adopt a constitution, by-laws, rules

(L. 1875, ch. 267; R. S., 8th ed., 2025.)

and regulations for the government of said corporation, and for the admission, voluntary withdrawal, censure, suspension and expulsion of its members, for the establishing and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safe-keeping of its property, and from time to time to alter, modify or change such constitution, by-laws, rules and regulations; provided, however, that no constitution, by-laws, rules or regulations shall be made or adopted by said corporation which shall be inconsistent with the constitution and laws of the United States or this state. The by-laws of any society or club for yachting purposes may provide that the qualified voters of such society or club be limited to the owners of yachts in such manner that the owners of each yacht shall together cast but one vote in the meetings of such society or club, and in the election of its officers, trustees, directors or managers.

[The provision that on filing certificate the corporation is formed is in § 31 of revision. The general powers of the corporation are in § 11 of Gen. Corp. L. The power to hold property to the amount of $3,000,000 is in § 12 of Gen. Corp. L. The provision that corporation may make by-laws, etc., is in § 8 of revision. The provision that yacht owners may vote, if the by-laws so provide, is in § 8 of revision.]

§ 3. The membership of any person in said society or corporation shall be determined by his death or by his voluntary withdrawal therefrom, or by expulsion therefrom, and the manner of such withdrawal or expulsion of members shall be determined and provided by the by-laws of said corporation, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so determined, in or to or by reason of the said corporation, by reason of his former membership therein, or in or to its property or effects, shall, unless such by-laws shall otherwise provide, or except by the unanimous consent of the board of trustees of such corporation, and as otherwise hereinafter provided, cease and be forever at an end. Provided that any such society or corporation may, under such regulations and restrictions as shall be prescribed by its board of trustees, convey to any member of such society or corporation, by deed, such portion of its real estate as shall have been used, or shall thereafter be used by such member for the erection thereon of a cottage or other dwelling-house, with suitable outbuildings, and such portion of real estate, together with the buildings thereon, shall belong to such member according to

(Laws 1875, ch. 267; R. S., 8th ed., 2026.)

the terms of such conveyance, and in case of his death, shall pass as part of his estate to his heirs or devisees, but the land whereon such buildings shall be erected shall be inalienable by him or them, except to such society or corporation, or to a member thereof; and provided also that any member of such society or corporation may, in his life time, on his voluntary withdrawal from such society or corporation, and after his death, his personal representatives may sell, transfer and assign his share and interest in the property of such society or corporation, to it, or to a member thereof, for such sum as may be mutually agreed upon; and such society or corporation shall have power, under the direction and regulation of its board of trustees, to purchase and pay for the same. (As amended by L. 1890, ch. 68.)

[Section 8 of revision authorizes the adoption of by-laws regulating the expulsion of members, the termination of membership, etc. Section 9 of revision provides that on the termination of membership, all the rights of the member in or to the corporation or its property shall cease, unless otherwise provided by law or the by-laws. The provision of § 3, relating to transfers of lots, etc., to members, is re-enacted without change of substance, in § 13 of revision.]

§ 4. The society so incorporated may elect from its members, its trustees, directors or managers, and the trustees, directors or managers so elected may divide the whole number of trustees, directors or managers into classes, so that not less than one-fourth of their number shall be elected annually, after the first organization of any board of such trustees, directors or managers. Such election may be held at such time and place and in such manner as may be specified in the by-laws, except that in all societies incorporated under this act where the members own or are interested in individual lots of land conveyed by the society to such member or to some one of his family, in which case each member in good standing shall be entitled to vote in person or by written proxy, at such election or at any meeting of the society; and such board shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business; but any such society may by the consent in writing of a majority of its members fix the number of trustees, directors or managers, who shall constitute a quorum of its board of directors, trustees or managers for the transaction of business, which consent duly acknowledged or proved by subscribing witness shall be filed in the office of the clerk of the county where the original certificate of incorporation

(Laws 1875, ch. 267; R. S., 8th ed., 2026.)

was filed, and a transcript thereof duly certified under the official seal of said clerk shall be filed in the office of the secretary of state; and whenever any vacancy shall happen among such trustees, directors or managers by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society. The number of trustees, directors or managers in any corporation organized under this act may at any time be increased to not more than twenty or diminished to not less than five, as follows: The existing trustees, directors or managers of any such corporation, or a majority of them, shall make and sign a certificate declaring how many trustees, directors or managers the corporation shall thereafter have, and stating the names of such trustees, directors or managers for the present time, which certificate shall be acknowledged by the trustees, directors or managers signing the same, or proved by a subscribing witness, and shall be filed in the office of the clerk of the county where the original certificate of incorporation was filed, and a duplicate or transcript thereof,, duly certified under the official seal of such clerk, shall be filed in the office of the secretary of state; and from and after the filing of such certificate and duplicate or transcript, the trustees, directors or managers of such corporation shall be deemed increased or diminished to the number therein stated, and the persons so named therein shall be trustees, directors or managers until a new election thereof shall be had according to this act and the constitution, by-laws or regulations of such corporation. But no act of the trustees, directors or managers, changing the number of such trustees, directors or managers, shall be valid until ratified by a majority of the members of such corporation at a meeting called for that purpose. (Thus amended by L. 1893, ch. 465.)

[Section 8 of revision provides that the by-laws may classify the directors in not more than five classes, the term of office to be as many years as there are classes. Section 8 provides that the by-laws may regulate the qualifications of voters at corporate meetings, and § 13 of revision provides that the grantees of lots may vote if the by-laws so provide. Section 29 of Gen. Corp. Law fixes a majority as a quorum of directors. Section 8 of revision authorizes the adoption of by-laws regulating vacancies in office of corporate officers. By § 14 of revision the number of directors may be changed to not less than three nor more than thirty by action of a corporate meeting.]

[Section 5 repealed by Gen. C. L., 1890.]

(Laws 1875, ch. 267; R. S., 8th ed., 2026.)

§ 6. The provisions of this act shall not extend or apply to any association or individuals, who shall in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in the state.

[Covered by Gen. C. L., § 6.]

[Section 7. Devises and bequests. Not repealed.]

§ 8. The trustees, directors or managers of any society or corporation organized under the provisions of this act, shall be jointly or severally liable for all debts due from said society or corporation, contracted while they are trustees; provided, said debts are payable one year from the time they shall have been contracted; and, provided, a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

[Re-enacted in § 11 of revision, without change in substance.]

§ 9. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court; or by any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office, where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file.

[Visitation by supreme court is retained in § 16 of revision. The filing of annual inventory is omitted but by § 16 may be required by order of court upon petition, stating mismanagement by directors, etc. Section 11 of revision requires an annual report to be made by the directors at the annual meeting.]

(L. 1875, ch. 343; R. S., 8th ed., 2040.)

Section 1. Any number of persons not less than five, citizens of the United States, a majority of whom shall also be citizens of

(Laws 1875, ch. 343; R. S., 8th ed., 2011.)

this state, who shall desire to associate themselves together for the purpose of founding, continuing and perpetuating a library, may make, sign and acknowledge before any officer authorized to take acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the office of such society shall be situated, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the business and object of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers for the first year of its existence, and the city or town of the county in which such library shall be located; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which said library shall be located, to be indorsed on such certificate.

[Library corporations can not hereafter incorporate under this chapter, being excluded by the language of § 30. Hereafter they can only incorporate pursuant to the University Law (L. 1892, ch. 378), with the consent of the regents. Library corporations formed under chapter 343 of the L. of 1875 will be subject to this chapter, being within the terms of the definition of a membership corporation in § 2 of revision.]

§ 2. Upon filing a certificate, as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their sucessors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding real estate by gift, grant or otherwise, for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of fifty thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of seventy-five thousand dollars in value; but the clear annual income of such real and personal estate shall not exceed the sum of ten thousand dollars; to make by-laws for the management of its affairs not inconsistent with the constitution and laws of this state or of the United States; to elect and appoint the officers and agents of such society for the management of its business, and to allow them a suitable compensation.

[The general powers of the corporation are in Gen. Corp. L., § 11. The power to hold a certain amount of property is superseded

(Laws 1875, ch. 343; R. S., 8th ed., 2041.)

by Gen. Corp. L., § 12, which authorizes $3,000,000. The power to make by-laws is in Gen. C. L., § 11 and § 8 of revision.]

§ 3. The society so incorporated may prescribe by its by-laws what persons may thereafter become its members and have the right to vote at its meetings, and may annually elect from its members, its trustees, directors, managers, at such time and place and in such manner as may be specified by it in its by-laws, who shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society.

[The power to make by-laws is in § 8 of revision. The provision that a majority of the directors shall be a quorum is in Gen. Corp. L., § 29. By-laws adopted pursuant to § 8 of revision may regulate the filling of vacancies.]

§ 4. The provisions of this act shall not extend or apply to any association or individuals who shall in the certificates filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously incorporated society in this state.

[Covered by Gen. Corp. L., § 6.]

[§ 5. Devises. Not repealed.]

§ 6. The trustees of any company or corporation organized under the provisions of this act, shall be jointly and severally liable for all debts due from said company or corporation contracted while they are trustees, provided said debts are payable within one year from the time they shall have been contracted, and provided a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

[Re-enacted in § 11 of revision.]

§ 7. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose.

[Re-enacted in § 11 of revision, without change in substance.]

(L. 1875, ch. 419 amends L. 1853, ch. 395.)
(L. 1875, ch. 452 amends L. 1848, ch. 319.)
(L. 1875, ch. 512 amends L. 1855, ch. 425.)
(L. 1876, ch. 53, amends L. 1875, ch. 267.)
(L. 1876, ch. 190 amends L. 1848, ch. 319.)
(L. 1876, ch. 346 amends L. 1855, ch. 425.)
(L. 1877, ch. 228; R. S., 8th ed., 2057.)

Section 1. At any time hereafter any twelve or more persons who may desire to form a corporation commonly called board of trade or exchange, or a builders' exchange or association, for the purpose of fostering trade and commerce, or the interests of those whose business is the erection of buildings or the furnishing of materials used in the erection of buildings, to reform abuses in trade or business, to secure freedom from unjust or unlawful exactions, to diffuse accurate and reliable information among its members as to the standing of merchants and builders, and other matters to produce uniformity and certainty in the customs and usages of trade and commerce, and of those engaged in the business of erecting buildings or the furnishing of materials, to settle difference between its members and to promote a more enlarged and friendly intercourse between merchants and business men, may make, sign and acknowledge before some officer competent to take the acknowledgment of deeds, and file in the clerk's office of the county where the principal office of such corporation is to be located, and a duplicate thereof in the office of the secretary of state, a certificate in writing in which shall be stated the name of the corporation, and the object for which it shall be formed, the amount of its capital stock, if any, the number of shares of which said stock shall consist, the time of its existence, not to exceed fifty years; the number of trustees and their names, who shall manage the affairs of the corporation for the first year, and the name of the city or town and county in which the principal office of such corporation is to be located. (Thus amended by L. 1886, chap. 333.)

[Section 1 is re-enacted in § 130 of revision with the following changes: Five or more persons may incorporate instead of twelve or more, and the provision is broader in that persons having a "common trade, business, financial or professional interest" may incorporate.

The manner of acknowledging the certificate is regulated by Stat. Const. L., § 15, and the place where it is to be filed is prescribed by § 5 of the Gen. Corp. L.

Board of trade corporations can not incorporate under this chapter for business purposes, with capital stock. See note to § 130 of revision.]

(Laws 1877, ch. 228; R. S., 8th ed., 2057.)

§ 2. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors and associates, shall be a body politic and corporate in fact and in name stated in such certificate; and by such name shall have power:

1. To sue and be sued; complain and defend in any court of law or equity.

2. To make and use a common seal, and alter the same at pleasure.

3. To appoint such subordinate officers and agents as the business of the corporation may require, and to allow them a suitable compensation.

4. To make by-laws not inconsistent with any existing law, for the management of its property, the regulation of its affairs, and for the transfer of its stock.

[Section 2 is not re-enacted, but its provisions are covered by § 11 of the Gen. Corp. L.]

[Sections 3-6 were repealed by general and stock corporation laws of 1890.]

§ 7. Such corporations shall have power to admit and expel members in such manner as may be provided in the by-laws of such corporation.

[Section 7 is covered by § 8 of revision, authorizing the adoption of by-laws.]

(L. 1877, ch. 380 amends L. 1865, ch. 368.)
(L. 1877, ch. 426 amends L. 1868, ch. 402.)
(L. 1877, ch. 469 amends L. 1854, ch. 112.)
(L. 1879, ch. 107; R. S., 8th ed., 1943.)

Section 1. Any rural cemetery association duly incorporated under the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, which shall have issued, or which may hereafter issue certificates of indebtedness, pursuant to the provisions of chapter one hundred and sixty-three of the laws of eighteen hundred and sixty, entitled "An act to amend the act entitled An act authorizing the incorporation of rural cemetery associations, passed April twenty-seventh, eighteen hundred and forty-seven," or which shall have any outstanding indebtedness for lands purchased for cemetery purposes or for moneys actually expended in preserving, improving and embellishing the cemetery grounds, may change such certificates of indebtedness, or said outstanding

(Laws 1879, ch. 107; R. S., 8th ed., 1944.)

Indebtedness, or any part thereof, into certificates of stock, by and with the consent of two-thirds of the trustees of the said rural cemetery association issuing the same, and the consent of the person or persons holding the said certificate of indebtedness, or to whom said outstanding indebtedness is due, which change shall be effected in the manner following, that is to say: The board of trustees of any such corporation desiring to make the change authorized by this act, by a vote of not less than two-thirds of all the trustees elected, shall adopt a resolution expressing the desire and willingness of the said corporation to receive and accept a surrender and cancellation of the outstanding indebtedness or certificate of indebtedness issued by the said corporation, and to issue certificates of stock therefor in shares of the par value of twenty-five dollars each, or some multiple thereof, which resolution shall be entered at length in the book of minutes kept by the said board of trustees, whereupon the person or persons to whom said outstanding indebtedness is due or the person or persons holding the certificates of indebtedness referred to in the said resolution may cancel the said outstanding indebtedness or surrender and yield up such certificate of indebtedness to the said corporation, to be cancelled and destroyed, and thereupon the said trustees shall have power to issue and deliver to such person or persons certificates of stock, in shares of twenty-five dollars each, or some multiple thereof, to an amount corresponding with the amount of the outstanding indebtedness or of the certificates of indebtedness so surrendered. And from thenceforth no interest shall accrue or become payable to the holders of the said stock, but in lieu of interest, if, after deducting all current expenses incurred by said trustees from the total receipts from all sources of said cemetery, there shall remain a surplus, then the holders of the said stock shall be entitled to claim and lawfully receive annually or semi-annually a dividend for such proportion of the said surplus or net receipts of the said cemetery as shall have been agreed upon at the time of issuing such stock, if any surplus shall remain after the payment of such current expenses. (As am. by L. 1894, ch. 267.)

§ 2. The certificates of stock hereby authorized to be issued shall be sealed with the corporate seal of the association, and signed by the president or vice-president and treasurer thereof. Such stock shall be deemed personal property, and shall be transferable only on the books of the said association upon the surrender of the certificate thereof (unless otherwise provided on the face of such certificate), and upon every such surrender a new certifi-

(L. 1879, ch. 167; R. S., 8th ed., 1944.)

cate for the stock surrendered shall be issued to the party to whom the said stock shall have been transferred, and the holders of the said stock shall be entitled, in person or by proxy, to one vote for every share thereof, at the annual election for trustees and at other business meetings of the said corporation.

§ 3. The trustees shall keep a register or record of the stock issued by the said corporation, showing the date of issue, the number of shares, the par value thereof, and the name or names of the person or persons to whom the same shall be issued, and the number of the certificate therefor, and all transfers of such stock shall be noted and entered in the said register or record, and the certificates surrendered shall be deemed cancelled by the issue of a new certificate, and such surrender certificate shall be destroyed.

§ 4. Nothing in this act contained shall be construed to create a lien upon lots or plats belonging to individual proprietors within the cemetery limits, nor any other or greater liability against the association or trustees issuing such stock, than may be necessary to enforce the faithful application of the surplus or net receipts of the said cemetery to and among the holders of the said stock in manner aforesaid; provided, however, that any trustee of such corporation may become the holder or transferee of such stock for his own individual use or benefit.

[This chapter is re-enacted, without change of substance, in § 50 of revision, so far as certificates of stock heretofore issued are concerned. There is no authority in the Membership Corporations Law for the issue of such certificates, hereafter.]

(L. 1879, ch. 108 amends L. 1847, ch. 133.)
(L. 1879, ch. 252 amends L. 1848, ch. 319.)
(L. 1879, ch. 411 amends L. 1868, ch. 402.)
(L. 1880, ch. 98 amends L. 1875, ch. 267.)
(L. 1880, ch. 246; R. S., 8th ed., 2027.)

Section 1. Any society, association or incorporation now incorporated, or that hereafter may be incorporated under and by virtue of chapter three hundred and sixty-eight of the laws of eighteen hundred and sixty-five, entitled "An act for the incorporation of societies or clubs for certain social and recreative purposes," and the acts amendatory thereof, may, from time to time, extend its objects and business beyond those set forth in its original certificate, so as to include other objects and business authorized by said acts, on making, signing and acknowledging, under the hands of its trustees, or a majority of them, an additional certificate stating the further objects and business of such

(L. 1880, ch. 566; R. S., 8th ed., 1944.)

society, and filing the same in the office of the secretary of state and also in the office of the clerk of the county in which the office of such society shall be situated; provided that no such society or incorporation shall engage, directly or indirectly, in any objects or business not specified or included in the said acts.

[Section 4 of revision authorizes an extension to objects of a kindred nature, for which the corporation might have been originally created. See note to § 4 of revision.]

(L. 1880, ch. 566; R. S., 8th ed., 1944.)

[Section 1 amends the act of 1847.]

§ 2. Any lot or plat hereafter conveyed by any association incorporated under the act hereby amended, may be conveyed in such form and manner that, from the time of such conveyance, or from the time of any interment in such lot or plat, the same shall be forever thereafter inalienable, and shall, upon the death of the holder or proprietor thereof, descend to all or any one or more of the heirs-at-laws of such holder or proprietor, and to all or any one or more of their heirs-at-law, or to such other person or persons, or such other class or classes of persons as may in the conveyance thereof be designated for that purpose; but any one or more of such heirs-at-law, or of the persons who shall become the joint owners or proprietors of such lot or plat, may release to any other or others of such heirs-at-laws, or persons, his, her or their interest in the same, on such conditions as shall be specified in such release, a copy of which shall be filed in the office of such association.

[Section 2 is re-enacted in § 49 of revision, which makes the lot inalienable after a burial therein, while under the above section such lot may be made inalienable from the time of the conveyance.]

§ 3. Any lot or plat heretofore conveyed, or which may hereafter be conveyed by said association, may be held in the manner and for the purpose authorized by the last preceding section; provided that the owner or proprietor thereof, who has received a conveyance of the same from such association, shall signify and declare his or her wishes thereto, by an instrument in writing duly acknowledged, or by any last will and testament duly made and executed; and shall file the same, or a copy thereof, in the office of such association.

[Section 3 is not re-enacted.]

(Laws 1880, ch. 566; R. S., 8th ed., 1945.)

§ 4. Any such association may take and hold any lot or plat which may be conveyed or devised to it by the owner or proprietor thereof, receiving title thereto from such association, with authority in the grantor or testator to make the said lot or plat thereafter inalienable, and to restrict interments therein to such person or persons, or such class or classes of persons, as may for that purpose be designated and prescribed in the conveyance or devise under which the said lot or plat shall be so taken and held.

[The provision authorizing the corporation to hold lots reconveyed to it is re-enacted without change of substance in § 49 of revision. The remainder of the section is omitted.]

(L. 1881, ch. 139; R. S., 8th ed., 1948.)

Section 1. Every corporation which shall, under authority of law, hold, occupy and use lands for a cemetery and burial place, may receive by gift or bequest any moneys or personal property for the improvement and maintenance of such cemetery; or for the maintenance, repair, preservation or ornamentation of any private plat, vault, monument, tomb or other structure in such cemetery, according to the terms of such gift or bequest.

[This chapter is re-enacted without change of substance in § 45 of revision.]

(L. 1881, ch. 207 amends L. 1855, ch. 425.)
(L. 1881, ch. 254 amends L. 1848, ch. 319.)
(L. 1881, ch. 388 amends L. 1855, ch. 425.)
(L. 1881, ch. 412 amends L. 1868, ch. 402.)
(Laws 1881, chap. 428; R. S., 8th ed., 1928.)

Section 1. The funds of charitable and benevolent institutions and charitable and benevolent corporations may be invested in any such securities as are now permitted by law to banks for savings; and also in such real estate as such institutions or corporations are permitted to hold under the laws of this state.

§ 2. Such associations and corporations may retain and hold as such investment any specific property, real or personal, donated to them respectively.

§ 3. Nothing contained in this act shall be so construed as to permit any such institution or corporation to take or hold any personal or real estate beyond the amount in value it is now entitled to hold under its charter or the laws of this state.

[This act is repealed, but not re-enacted. There is no doubt that the surplus funds of a membership corporation can be so invested without express authority of law.]

(L. 1881, ch. 497 amends L. 1847, ch. 133.)
(L. 1881, ch. 526 amends L. 1848, ch. 319.)

(L. 1881, ch. 641; R. S., 8th ed., 1928.)

Section 1. All corporations already formed or which hereafter may be formed under and in pursuance of chapter three hundred and nineteen of the laws of eighteen hundred and forty-eight, being "An act for the incorporation of benevolent, charitable, scientific and missionary societies," and the several acts amendatory thereof, and their successors, by their corporate name, shall in law be capable of taking, receiving, purchasing and holding real estate for the purposes of their incorporation to an amount not exceeding the sum of two hundred thousand dollars in value, and personal estate for like purposes to an amount not exceeding the sum of two hundred thousand dollars in value, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars, subject, however, to the restrictions upon devises and bequests contained in an act, entitled "An act relating to wills," passed April thirteen, eighteen hundred sixty.

[Superseded by Gen. Corp. L., § 12.]

(L. 1883, ch. 446 amends L. 1848, ch. 319.)
(L. 1884, ch. 68 amends L. 1869, ch. 629.)
(L. 1884, ch. 433 amends L. 1860, ch. 163.)
(L. 1884, ch. 436 amends L. 1855, ch. 425.)
(L. 1885, ch. 66 amends L. 1865, ch. 368.)
(L. 1885, ch. 88 amends L. 1848, ch. 319.)
(L. 1885, ch. 474 amends L. 1875, ch. 267.)
(L. 1886, ch. 30 amends L. 1875, ch. 130.)

(L. 1886, ch. 236; R. S., 8th ed., 2027.)

Section 1. Any five or more persons, of full age, citizens of the United States, and a majority of whom are also citizens of this state, who desire to form themselves into a political club, may sign and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the office or house of such club shall be situated, a certificate in writing, in which shall be stated the name or title by which such club shall be known in law; the particular business and object of such club; the number of trustees, directors, managers or executive committee to manage the same, and the names of the trustees, directors, managers or executive committee for the first year of its existence.

[Sections 30-31 of revision, without change in substance.]

(Laws 1886, ch. 236; R. S., 8th ed., 2028.)

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be capable of suing and being sued; and they and their successors may have and use a common seal, and may alter and change the same at pleasure; and they and their successors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing, leasing and holding real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of five hundred thousand dollars in value, exclusive of the building and improvements thereon, and personal estate for like purposes to an amount not exceeding the sum of one hundred and fifty thousand dollars in value, exclusive of the building and improvements on its said real estate, and the furnishing of its club-house, but the clear annual income of such real and personal estate shall not exceed the sum of fifty thousand dollars; to make and adopt a constitution, by-laws, rules and regulations for the government of said corporation, and for the admission, voluntary withdrawal, censure, suspension and expulsion of its members, for the establishing and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safe-keeping of its property, and the general conduct of its affairs, and from time to time to alter, modify or change such constitution, by-laws, rules and regulations; provided, however, that no constitution, by-laws, rules or regulations shall be made or adopted by said corporation which shall be inconsistent with the constitution and laws of the United States or this state.

[Provision that on filing certificate, corporation is formed, is in § 31 of revision. Provision as to general powers, is superseded by Gen. Corp. L., § 11. Provision as to holding property is superseded by Gen. Corp. L., § 12, which allows $3,000,000. The provisions in regard to making by-laws are in § 8 of revision.]

§ 3. The membership of any person in said club shall be determined by his death, or by his voluntary withdrawal therefrom, or by expulsion therefrom, and the manner of such withdrawal or expulsion of members shall be determined and provided by the constitution or by-laws of said corporation, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so determined, in or to said cor-

(Laws 1886, ch. 236; R. S., 8th ed., 2029.)

poration or its property or effects, shall at once cease and be forever at an end.

[Section 8 of revision authorizes the adoption of by-laws regulating admission and expulsion of members, and the termination of membership. Section 9 of revision provides that on termination of membership the interest of a member in the corporation and its property ceases, unless otherwise provided by the by-laws.]

§ 4. Any five or more of the officers or members of any unincorporated political club heretofore organized, when duly authorized by vote of said club, may avail themselves of the provisions of this act, by signing, acknowledging and filing a certificate in writing as provided in section one of this act, and thereupon all property, rights and interests of said club then held by any or either of its officers or members, or any person or persons, for its use and benefit, shall by virtue of this act vest in and become the property of the corporation so created, subject to the payment of the debts of said club. The several officers and committees of any club which may avail themselves of the provisions of this act, shall continue to hold their respective offices of said club, with the powers and duties prescribed by the constitution and by-laws of said club, until their successors shall be elected and installed, and in case of any previous vacancy among such officers, it shall be filled in the manner prescribed by the constitution and by-laws already adopted by said club or as the same may in conformity therewith be altered or amended by said corporation; and the constitution and by-laws of said club existing at the time its officers or members may avail themselves of the provisions of this act, shall be the constitution and by-laws of said corporation until so altered or amended by said corporation.

[By § 5 of revision incorporation may be effected substantially as here provided.]

§ 5. The club so incorporated may elect, from its members, its trustees, directors, managers or executive committee, except as hereinbefore provided; and the trustees, directors, managers or executive committee so elected may divide the whole number of trustees, directors, managers or executive committee into classes, so that not less than one-fifth of their number shall be elected annually after the first organization of any board of such trustees, directors, managers or executive committee. Such election may be held at such time and place and in such manner as may be specified in the constitution or by-laws; and such board,

(Laws 1886, ch. 236; R. S., 8th ed., 2029.)

together with the officers of the club for the time being, shall have the control and management of the affairs and funds of said club, a majority of whom shall be a quorum for the transaction of business, and whenever any vacancy shall occur in such board, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the constitution or by-laws of such club. The number of trustees, directors, managers or executive committee in any corporation, organized under this act, shall not be less than five nor more than forty.

[Section 10 of revision provides that the directors shall be members. Section 8 of revision provides that the by-laws may classify the directors, regulate elections and provide for the filling of vacancies. Section 29 of Gen. Corporation Law gives to the directors the management of corporate affairs and fixes a majority as a quorum. Section 31 of revision fixes the number of directors at not less than three nor more than thirty.]

§ 6. In case it shall, at any time, happen that an election of trustees, directors, managers or members of the executive committee shall not be made on the day designated by the by-laws, said club, for that cause, shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors, managers or members of the executive committee in such manner as may be directed by the constitution or by-laws of such club.

[Covered by the provisions of §§ 23--26 of General Corporation Law.]

(L. 1886, ch. 333 amends L. 1877, ch. 228.)

(L. 1886, ch. 666; R. S., 8th ed., 2042.)

Section 1. Any library association duly incorporated under the laws of this state and located in any city of the state, which owns real estate of the value of at least twenty thousand dollars in said city and also at least ten thousand volumes and maintains the same as a free public library or a free library for the free circulation of books, among the inhabitants of said city and which shall have actually circulated in the twelve months next preceding the date of the application herein authorized at least seventy-five thousand volumes, is hereby authorized to apply to the common council or other proper authority, and in the city of New York to the board of estimate and apportionment, for the appropriation of a sum not exceeding five thousand dollars.

§ 2. Any such library association which shall have circulated in addition to the seventy-five thousand volumes above specified, more than one hundred thousand volumes, is hereby authorized

(L. 1886, ch. 666; R. S., 8th ed., 2042.)

to apply to the common council or other proper authority, and in the city of New York to the board of estimate and apportionment for a further appropriation of five thousand dollars for each one hundred thousand volumes so circulated in the twelve months next preceding the date of such application over and above the seventy-five thousand volumes above referred to.

§ 3. The term "circulation," as used in this act is hereby defined to mean the aggregate number of volumes actually withdrawn from the library, or libraries, of any library association, by the people of said city, for use in their own homes or places of business.

§ 4. The common council of the cities of this state, or other proper authorities of the same, are hereby authorized and empowered to make proper provision for the payments of the appropriation as herein provided for.

§ 5. In the city of New York the board of estimate and apportionment may annually include in its final estimate the sums or sum provided as herein to be appropriated to any such library association as is authorized to receive such appropriation or appropriations under the provisions of this act; provided, however, that the whole appropriation for any one library association shall not exceed the sum of forty thousand dollars in any one year.

[Repealed but not re-enacted, being superseded by L. 1892, ch. 378, § 37.]

(L. 1887, ch. 313; R. S., 8th ed., 2043.)

Section 1. Any library association duly incorporated under the laws of this state, and located in any village or city of the state, having a population of not exceeding thirty thousand, which owns real estate of the value of at least four thousand dollars, or pays rent of at least three hundred dollars per annum in said village or city, and also owns at least five thousand volumes and maintains the same as a free public library, or a free library for the free circulation of books among the inhabitants of said village or city, and which shall have actually circulated in the twelve months next preceding the date of the application herein authorized, at least fifteen thousand volumes, is hereby authorized to apply to the board of trustees, common council or other proper authority for the appropriation of a sum not exceeding one thousand dollars.

§ 2. Any such library association which shall have circulated in addition to the fifteen thousand volumes above specified, more than fifteen thousand volumes, is hereby authorized to apply to the board of trustees, common council, or proper authority, for a further appropriation of one thousand dollars for each fifteen thousand volumes so circulated in the twelve months next pre-

(Laws 1887, ch. 313; R. S., 8th ed., 2043.)

ceding the date of such application, over and above the fifteen thousand volumes above referred to.

§ 3. The term "circulation," as used in this act, is hereby defined to mean the aggregate number of volumes actually withdrawn from the library or libraries of any said library association, by the people of said village or city, for use in their own homes or places of business.

§ 4. The board of trustees of villages, the common council of cities of this state or other proper authorities of the same, are hereby authorized and empowered to make proper provision for the payments of the appropriation as herein provided for, and also to raise by tax, in the manner now provided by law, the amount of the appropriation herein provided for, in addition to the sum which they are now authorized to raise.

[Repealed but not re-enacted, being superseded by L. 1892, ch. 378, § 37.]

(Laws 1887, chap. 317; R. S., 8th ed., 2031.)

Section 1. Any nine or more attorneys, or counselors of the supreme court of this state, in active practice therein, and residing or having offices in the same county, being citizens of the United States and of this state; who desire to form themselves into an association to cultivate the science of jurisprudence, to promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, and to cherish the spirit of brotherhood among the members thereof, may sign and acknowledge before any officer authorized to take acknowledgments of deeds in this state, and file in the office of the secretary of state, and a duplicate thereof in the office of the clerk of the county in which such association is formed, a certificate, in writing, to be approved by three justices of the supreme court, in which shall be stated the name of said association, its object, the number of trustees who shall manage the same, the names of the trustees for the first year of its existence, and the name of the county in and for which it is formed.

[Re-enacted in § 100 of revision. Number of incorporators changed to not less than five.]

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate. Such association shall have succession, and shall be capable in law of suing and being sued, and may have and use a common seal, and may alter and change the same at pleasure, and shall in

(Laws 1887, ch. 317; R. S., 8th ed., 2032.)

law be capable of taking, receiving, purchasing, leasing and holding real estate for the purpose of such association to an amount not exceeding the sum of two hundred thousand dollars in value, exclusive of the buildings and improvements thereon, and personal estate not exceeding in amount the sum of fifty thousand dollars in value, but the clear annual income of such real and personal estate shall not exceed the sum of twenty-five thousand dollars; to make by-laws, rules and regulations for the government of said association, and for admission, voluntary withdrawal, censure, suspension and expulsion of its members; for the establishment and collection of the fees and dues of its members, the number and election of its officers, and to define their duties and compensation, and for the safekeeping of its property, and from time to time alter, modify or change such by-laws, rules and regulations; provided, however, that no by-laws, rules or regulations shall be made or adopted by said association which shall be inconsistent with the constitution and laws of the United States or of this state; and provided, further, that no one shall be eligible to active membership in such association unless he resides, or has an office, in the county in and for which such association is formed, and is an attorney and counselor of the supreme court of this state.

[The provision that on filing certificate, the corporation is formed, is in § 100 of revision. The general powers of the corporation are in § 11, Gen. Corp. L. The power to hold property is superseded by Gen. Corp. L., § 12, which authorizes $3,000,000. The power to make by-laws for various purposes is in § 8 of revision, and Gen. Corp. L., § 11.]

§ 3. The membership of any person in said association shall be determined by his death or his voluntary withdrawal therefrom, or by expulsion therefrom, and the manner of such withdrawal or expulsion of members shall be determined and provided by the by-laws of said association, and upon such death, withdrawal or expulsion, all and every right, title and interest of the person whose membership is so determined of, in and to the property and effects of said association, shall thereupon be forever at an end.

[Sections 8 and 9 of revision.]

§ 4. The association so incorporated shall elect its trustees from its members. Such election may be held at such time and place and in such manner as may be specified in the by-laws, and such board shall have the control and management of the affairs and property of said association. The number of such board that shall constitute a quorum for the transaction of

(Laws 1887, ch. 317; R. S., 8th ed., 2032.)

business may be specified in the by-laws, but if not so specified, a majority of such board shall constitute a quorum. Whenever any vacancy shall happen among such trustees by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be specified by the by-laws of such association. (As am. by L. 1894, ch. 332.)

[Section 9 of revision provides that directors shall be members. Section 8 of revision authorizes the adoption of by-laws regulating elections and the filling of vacancies. Section 29 of Gen. Corporation L. gives to the directors the management of corporate affairs, and makes a majority a quorum.]

§ 5. Any association organized under this act may at any time, and in such manner as shall be provided by the by-laws of such association, increase the number of trustees to not more than twenty-one (21), or diminish to not less than nine (9). Whenever the trustees are diminished or increased, the existing trustees of any such association, or a majority of them, shall sign and acknowledge before any officer authorized to take acknowledgments of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county where the original certificate of incorporation is filed, a certificate in writing declaring how many trustees such association shall thereafter have, and from and after the filing of such certificate the number of trustees of such association shall be deemed increased or diminished to the number therein stated.

[Section 14 of revision authorizes a change in the number of trustees to not less than three nor more than thirty by action of a corporate meeting.]

(Laws 1887, ch. 317; R. S., 8th ed., 2033.)

[Section 6 was repealed by Gen. Corp. L. of 1890.]

[Section 7. Devises. Not repealed.]

§ 8. The trustees of any association organized under the provisions of this act who shall consent to the contracting of any debt by such association shall be jointly and severally liable therefor, provided that an action for the collection of the debt shall be brought within one year after the same shall become due.

[Section 11 of revision makes the directors liable for debts contracted while they are directors, payable within one year, provided an action is brought against the corporation within one year and a second action is brought against the directors within one year after execution against the corporation is returned unsatisfied.]

(L. 1887, ch. 501; R. S., 8th ed., 1933.)

Section 1. Any twenty or more persons, being citizens and residents within this state, and having associated themselves as a young men's Christian association, for the improvement of the spiritual, mental, social and physical condition of young men, by the support and maintenance of lecture-rooms, libraries, reading-rooms, religious and social meetings, gymnasiums and such other means and services as may conduce to the accomplishment of that object, according to the general rules and regulations of the state executive committee of the young men's Christian associations of this state, may make, sign and acknowledge before any officer authorized to take acknowledgments of deeds in this state and, with the written consent and approbation of one of the justices of the supreme court, file in the office of the secretary of state, and also in the office of the clerk of the county in which such society is to have its principal office, a certificate in writing in which shall be stated the object of such association to be that above set forth, the place wherein the principal office is to be located, the number and names of the directors or managers of such association for the first year of its existence, and also the names of six trustees who, together with the president of the association, shall form a board of trustees to hold and control the real property of such association.

[Re-enacted in § 90 of revision, without change of substance.]

§ 2. Upon filing a certificate as aforesaid the persons who shall have signed and acknowledged such certificate and their associates and successors shall thereupon by virtue of this act be a body politic and corporate by the name of "the young men's Christian association of " (the place named in said certificate), and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and the same may alter and change at pleasure, and they and their successors by their corporate name shall in law be capable of taking and receiving by devise or otherwise, purchasing and holding real estate for the purposes of their incorporation, and for no other purpose; and shall have power to make by-laws for the management of the affairs of such association not inconsistent with the constitution and laws of this state; and to elect and appoint the officers and agents of such association for the management of its business and carrying out its object, and to allow them a suitable compensation. (Thus am. by L. 1890, ch. 104.)

[The provision that on filing the certificate, the corporation is formed, is in § 90 of revision. The general powers of the corpora-

(Laws 1887, ch. 501; R. S., 8th ed., 1934.)

tion are in Gen. Corp. L., § 11. The power to make by-laws is in § 8 of revision and § 11 of Gen. Corp. Law.]

[Section 3 was repealed by Gen. Corp. L. of 1890.]

§ 4. Each member of the board of trustees shall be a member of one of the Protestant Evangelical denominations, but not more than two of such members, exclusive of the president of the association, shall be members of any one denomination. The several trustees shall hold office for such a term or terms as may be prescribed by the by-laws duly established and adopted by the board of trustees; and whenever a vacancy occurs in said board of trustees by expiry of term or otherwise, the same shall be filled by a majority vote of the remaining trustees.

[The first sentence is in § 90 of revision. The by-laws adopted pursuant to § 8 of revision may regulate the terms of office and the manner of filling vacancies.]

§ 5. The real property of the association shall be managed by the board of directors or managers of such association, but all real property which shall be given or acquired by such association, and all gifts and bequests of money to be held in trust, shall be held by the board of trustees; but no real property belonging to an association so incorporated shall be conveyed, disposed of or mortgaged by said board of trustees except under the direction of such association, nor shall such real property be liable for any debt or obligation of the corporation, unless such debt or obligation shall have been contracted with the approval of the board of trustees. The income which the said board of trustees shall receive from the property under its control and the said property shall be devoted to the purposes of this act and for no other purpose and so long as the managers or directors of the association for which they are trustees shall so expend the same, the income of the property so controlled by the said board of trustees shall be paid over to the treasurer of such association.

[Section 91 of revision. By § 13 the real property can only be mortgaged, sold or leased, with leave of the court.]

§ 6. All associations organized under this act shall be subject to and included in, and entitled to all the benefits of chapter fifty-eight of the laws of one thousand eight hundred and sixty-one, entitled "An act to authorize the leasing or sale and conveyance of the real estate of benevolent, charitable, scientific, missionary societies and orphan asylums." And it is hereby further provided that where there shall have existed a corporation or association owning or holding property, real or personal, which they

(Laws 1887, ch. 501; R. S., 8th ed., 1934.)

shall desire to convey and transfer to a corporation organized under this act, that it shall be lawful for the supreme court of this State, on an application made in the judicial district where such corporation or association shall be located, upon the application of three-fourths of the trustees of such new corporation, to make an order authorizing such transfer and conveyance, specifying by whom the same shall be executed, and such transfer or conveyance, when so made, shall vest in the grantees thereof full and absolute title to property, subject only to such liens or incumbrances as existed thereon immediately prior to such transfer or conveyance. (Added by L. 1889, ch. 33.)

[Transfer of property on consent of court, allowed generally by this section, is restricted to a conveyance to a corporation of the same or a kindred nature by § 13 of revision.]

(L. 1887, ch. 506, amends L. 1855, ch. 425.)
(L. 1887, ch. 645, amends L. 1865, ch. 368.)

(L. 1888, ch. 293; R. S., 8th ed., 2013.)

Section 1. Any fifteen or more persons of full age, citizens of the United States, a majority of whom shall be citizens of, and residents within this state, who shall desire to associate themselves together for the purpose of providing parks and playgrounds for children in any of the cities, towns or villages of this state, may make, sign and acknowledge, before any person authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which such park or play-grounds are to be situated, certificates in writing in which shall be stated the name or title by which the society shall be known in law, the city, town or village in which it is proposed to establish such parks or playgrounds, the number of trustees, directors or managers to manage the same; the names of the trustees, directors or managers of such society for the first year of its existence; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the department in which such parks or play grounds are to be situated, to be indorsed on such certificate.

[Sections 30-31 of revision. Minimum number of incorporators changed to five.]

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon by virtue of this act be a

(Laws 1888, ch. 293; R. S., 8th ed., 2014.)

body politic and corporate by the name stated in such certificate, and by that name, they and their successors shall and may have succession and shall be a person in law capable of suing and being sued, and they and their successors may have and use a common seal and the same may alter and change at pleasure; and they and their successors by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding by gift, purchase, bequest or devise, real and personal estate for the purposes of their incorporation and for no other purpose to an amount not exceeding the sum of one-half million dollars and such additional amount as may be authorized by the mayor and common council of any city or supervisor of any town or trustees of any village, as the case may be, in which it is proposed to establish and maintain such parks; and shall have power to make by-laws and rules for the management of its affairs and for the protection of its property and maintenance of order; to elect and appoint officers and agents of such society; and generally to manage and conduct its affairs consistently with the constitution and laws of this state and of the United States and so as to promote the objects and purposes of its incorporation. Such corporations may also at their own expense appoint and employ police officers, who shall for the purpose of enforcing order and compliance with their orders, have all the powers and authority of the public police officers or patrolmen of the city, town or village wherein such parks or play-grounds may be situated within the limits of their parks or play-grounds and within one thousand feet of the limits thereof, subject however to all laws, ordinances or police regulations of the cities, towns or villages in which such parks and play-grounds may be situated and subject to the authority of the commissioners, superintendents, captains, sergeants or other superior police officers or authority of the particular district or locality in which the same may be.

[Provision that on filing certificate corporation is formed is in § 31 of revision. The general powers of the corporation are in § 11 of Gen. Corp. L. The provision as to power of holding property is superseded by Gen. Corp. L., § 12. The power to make by-laws is in § 8 of revision. The provision in relation to police officers is not repealed here. It is to be re-enacted in the Code of Criminal Procedure.]

§ 3. The society so incorporated may annually elect from its members its trustees, directors or managers, in classes or otherwise, and at such time and place, and in such manner and numbers as may be specified in its by-laws, who shall have the con-

(Laws 1888, ch. 293; R. S., 8th ed., 2014.)

trol and management of the affairs, property and funds of said society, a majority of whom shall be a quorum for the transaction of business, if not otherwise provided in the by-laws, except that no purchase, lease or sale of real estate shall be made unless two-thirds of the whole number are present at the meeting at which it is ordered; and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society.

[Section 10 of revision provides that the directors shall be elected from among the members. Section 8 of revision authorizes the adoption of by-laws regulating elections, classifying trustees, etc. By § 13 of revision, real property can be purchased, sold or mortgaged only with the concurrence of two-thirds of the directors; and sold or mortgaged only on leave of the court.]

[Section 4 repealed by Gen. Corp. L. of 1890.]

§ 5. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state.

[Superseded by Gen. Corp. L., § 6.]

§ 6. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose, and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office, where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged, directly or indirectly, in any other business than such as is set forth in the original certificate on file.

[Visitation of supreme court is retained in § 16 of revision. Filing of annual report no longer required, but § 11 requires a report of the directors at the annual meeting. See note to §§ 11 and 16.]

(L. 1888, ch. 299 amends L. 1866, ch. 273.)

(L. 1888, chap. 391; R. S., 8th ed., 2087.)

Section 1. Any five or more citizens of the United States and of the state of New York, of full age, who desire to form themselves into a corporation or association for the purpose of educating, training and providing skilled nurses for the sick, and of doing such other practical or charitable work in hospital and elsewhere as may be consistent therewith, may sign and acknowledge before any officer authorized to take acknowledgment of deeds in this state and file in the office of the secretary of state, and also in the office of the clerk of the county where such corporation is to be formed, a certificate in writing to be approved as to form by one of the justices of the New York supreme court. In such certificate shall be stated the name of the proposed corporation, the number of managers who shall control the business of such corporation, and the names of the managers who shall hold office for the first year of its existence and until their successors are elected and qualified, together with the name of the city or county in which such corporation shall be formed.

[Re-enacted in §§ 30 and 31 of revision without change of substance.]

§ 2. Upon filing the certificate described in section one of this act, the persons who shall have signed and acknowledged it, their associates and successors shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate. They and their successors shall, as such corporation, be capable of suing and of being sued; may have and use a corporate seal and alter it at pleasure. Such corporation shall have the power to take and receive real and personal property either by gift, grant, purchase, demise or devise, and to hold the same subject to all the provisions of law, relating to purchase and to devises and bequests by last will and testament; and to sell, mortgage or lease the same as it may deem best, but the amount of the real estate which such corporation shall hold at any one time shall not, exclusive of buildings and improvements, exceed the value of twenty-five thousand dollars, or pay an annual income exceeding fifteen hundred dollars.

[Provision that on filing certificate, corporation is formed is in § 31 of revision. The general powers of the corporation are prescribed by Gen. Corp. L., § 11. The power to hold property is superseded by Gen. C. L., § 12, which authorizes $3,000,000. By § 13 of revision, the real property of the corporation may be sold, but only on order of the court, after a concurring vote of two-thirds of the directors.]

(Laws 1888, ch. 391; R. S., 8th ed., 2087.)

§ 3. The entire business and property of said corporation shall be controlled by its managers, who shall have full power from time to time to establish rules and make by-laws, not inconsistent with the laws of this state, for the election of its managers and their officers, for filling all vacancies, the conduct of meetings and the management of all the business of the corporation.

[By § 8 of revision the members are given the power to make by-laws instead of the directors, as provided by this section.]

§ 4. The number of managers of said corporation may be increased or decreased at pleasure by the vote of a quorum of the managers, at any meeting of which notice has first been given to all the managers then holding office. All managers shall hold office during the term for which they are originally appointed, or are elected, pursuant to the by-laws, until their successors are elected, and have qualified, and all vacancies by death, resignation or failure to act, may be filled as shall be provided in the by-laws.

[Section 14 of revision authorizes the members to change the number of directors to not less than three nor more than thirty. By this section a quorum of the directors can make the change. The provision that vacancies shall be filled as provided by the by-laws is in § 8 of revision.]

[Section 5. Repealed by Gen. Corp. L. 1890.]

§ 6. The trustees, managers or directors of any existing association or corporation heretofore organized under any other law for the general purposes specified in the first section of this act, may, by conforming to the requirements of the first section of this act, reincorporate themselves, and all the property and effects of such existing corporation shall vest in and belong to the corporation thus reincorporated, and the said corporation thus reincorporated, and its managers, shall thereafter be subject to the obligations and enjoy the privileges of this act precisely as if originally organized thereunder.

[Section 6 of revision authorizes corporations created by special law to reincorporate under Membership Corporations Law and thereafter be subject to its provisions only. Corporations subject to laws repealed by the Membership Corporations Law are subject to its provisions without reincorporation.]

(L. 1888, ch. 415 amends L. 1868, ch. 402.)
(L. 1888, ch. 484 amends L. 1847, ch. 133.)

(L. 1888, chap. 490; R. S., 8th ed., 1932.)

Section 1. Any five or more persons of full age, a majority of whom shall be citizens of and residents within this state, who shall desire to associate themselves together for the purpose of preventing cruelty to animals, may make, sign and acknowledge before any person authorized to take acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the clerk of the county in which the business of the society is to be conducted, a certificate in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors, or managers to manage the same, and the names of the trustees, directors or managers of the society for the first year of its existence. But such certificate shall not be filed, unless the written consent and approbation thereof of one of the justices of the supreme court of the district in which the place of business or principal office of such society shall be located, be first indorsed on such certificate, and no certificate for the incorporation of such a society shall be filed, unless there is annexed thereto, the written certificate of the president or acting president of the American Society for the Prevention of Cruelty to Animals, approving of such organization and incorporation. The provisions of this act shall not extend or apply to any association or individuals who shall, in the certificate filed as hereinbefore provided, use or specify a name or style, the same or substantially the same, as that of any heretofore existing incorporated society for the prevention of cruelty to animals in this state, and not more than one such society shall be incorporated or located in the same county within this state; nor shall any society be incorporated under this act in the city or county of New York, or in the counties of Kings, Queens, Suffolk, Richmond or Westchester, nor shall any society incorporated under this act, or its agents, exercise any power in any county except the county in which it is incorporated, but nothing herein contained shall apply to any society now incorporated. (Thus am. by L. 1892, ch. 291.)

[Provisions for filing certificate are in § 70 of revision. Provisions as to approval of certificate are in § 70 of revision. Provision that society shall not use same name as another corporation is superseded by Gen. C. L., § 6. Section 71 provides that, unless heretofore incorporated, there shall not be more than one society in a county. Provision that societies shall not be incorporated in certain counties is in § 71 of revision.]

(Laws 1888, ch. 490; R. S., 8th ed., 1933.)

§ 2. Upon filing the certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and as such shall have power,

1. To have perpetual succession by its corporate name.

2. To sue and be sued, complain and defend, in any court of law or equity.

3. To make and use a common seal, which may be affixed by making an impression directly on the paper, and alter the same at pleasure.

4. To appoint such officers, managers and agents as the business of the corporation may require.

5. To make by-laws not inconsistent with the laws of this state or United States, for the management of its property and the regulation of its affairs.

6. To contract and be contracted with.

7. To take and hold by gift, purchase, grant, devise or bequest, any property, real or personal, and the same to dispose of at pleasure. But such corporation shall not, in its corporate capacity, hold real estate, the yearly income derived from which shall exceed the sum of fifty thousand dollars.

8. To exercise any corporate powers necessary to the exercise of the powers above enumerated and given.

[The general powers of the corporation are in Gen. Corp. L., § 11. Gen. Corp. L., § 12, authorizes the holding of property to the amount of $3,000,000. Section 8 of revision and Gen. Corp. L., § 11, authorize the corporation to adopt by-laws.]

§ 3. Every society so incorporated shall be vested with the title, use and enjoyment of any gift, grant, devise or bequest which has been made to such society before its incorporation, which, by the consent of the American Society for the Prevention of Cruelty to Animals, has been heretofore used and enjoyed by it.

[Omitted.]

§ 4. All magistrates, constables, sheriffs and officers of police shall, as occasion may require, aid every society so incorporated, its officers, members and agents in the enforcement of all laws which now are or may hereafter be enacted, relating to or affecting animals.

[Section 72 of revision, without change of substance.]

(L. 1888, ch. 536, amends L. 1875, ch. 267.)
(L. 1889, ch. 33 amends L. 1877, ch. 501.)

(L. 1889, ch. 95; R. S., 8th ed. [Supp.], 3353.)

§ 1. Any number of persons, more than eleven in number, who may desire to form a corporation for the purpose of erecting, establishing, maintaining and operating a hospital, infirmary or home for the reception, care, maintenance, giving of medical and surgical advice, aid and treatment to persons afflicted with maladies, or physical injuries, or physical weaknesses or deformities or infirmities, or a home for aged and indigent persons or free dispensary, may make, sign and acknowledge, before an officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the county in which such hospital, infirmary or home is to be located, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of said corporation, and the objects for which the same shall be formed, the names of the persons who shall form the board of managers of said corporation for the first year, the term of duration of such corporation, and the name of the town or city and county in which the said hospital, home, infirmary or dispensary is to be located; but such certificate shall not be filed unless the written consent and approbation thereof by one of the justices of the supreme court of the district in which the place of business or principal office of such corporation shall be located be first indorsed thereon, together with the certificate in writing of the state board of charities approving of the organization and incorporation of such institution. On filing such certificate so indorsed, together with the certificate of the state board of charities approving the same, such persons and such other persons as may thereafter become associated with them shall be a corporation by the name specified in such certificate. (As am. by L. 1894, ch. 256.)

[Section 80 of revision. Minimum number of incorporators changed to five.]

§ 2. It shall be lawful for any corporation organized under the provisions of this act, to establish and maintain an institution for any one or more or all the purposes mentioned in the first section hereof, provided that the certificate of incorporation specify precisely for which of said purposes such institution is to be established.

[Section 80 of revision.]

§ 3. Such corporation shall have power to take, receive, and hold, by gift, grant, devise or bequest, in trust or in perpetuity, any real

(Laws 1889, ch. 95; R. S., 8th ed. [Supp.], 3353.)

and personal estate, either and both, for the uses and purposes of the said corporation; provided, however, that the annual net income of its property, real and personal, shall not exceed two hundred thousand dollars.

[Superseded by Gen. Corp. L., § 12, which authorizes corporation to hold property of the value of $3,000,000.]

[Section 4. Exemption from taxation. Not repealed.]

§ 5. It shall be lawful for the certificate of incorporation hereinbefore mentioned, to declare and prescribe what shall be the qualifications of members of the said corporation in the matter of adherence or non-adherence to any particular school or theory of medical or surgical treatment, and what system of practice of medicine or treatment shall be used and applied in such hospital, infirmary or home.

[Section 80 of revision without change in substance.]

§ 6. The affairs of such corporation shall be conducted, managed and administered by a board of managers, to consist of nine persons. The persons named as managers or trustees for the first year in the certificate of association hereinbefore mentioned, shall administer the affairs of the said corporation and its hospital, infirmary or home, for the first year after its organization. At the expiration of said year, and annually thereafter, an election of members of the board of managers shall be had. Such election shall be by ballot and all members of the corporation shall be entitled to vote thereat. Only members of the corporation shall be eligible as members of such board. At the first election a full board shall be chosen. The persons there elected shall divide themselves by lot into three classes of three members each. Those in the first class shall hold office for one year; those in the second class for two years, and those in the third class for three years. At each subsequent annual election three members of the board shall be elected, who shall hold office for three years. Members of said board shall hold office until their successors are elected. The board of managers shall have power to fill all vacancies occurring in said board by death, resignation or any other cause, except expiration of term. Such elections to fill vacancies shall be made by ballot. A person elected to fill a vacancy shall serve only for the balance of the term in which the vacancy occurred, or until his successor is elected.

[By § 29 of Gen. Corp. L. the directors are given the management of corporate affairs. Section 8 of revision authorizes the

(Laws 1889, ch. 95; R. S., 8th ed. [Supp.], 3354.)

adoption of by-laws regulating elections, eligibility of members, classification of directors, filling of vacancies, etc.]

§ 7. The board of managers shall annually elect from their own number a president, a vice-president, secretary and treasurer, who shall hold office respectively for one year or until their successors are elected. The said board shall also appoint such subordinate officers, physicians, surgeons, nurses, assistants and servants of such institution, as in their judgment its needs demand; and shall fix the compensation of such subordinates, define their duties, and shall have power to remove them or any one of them in the discretion of said board. The board of managers may also create an executive committee consisting of as many members of the board as they may deem advisable, and may delegate to such executive committee such powers of control and management of the home, hospital, dispensary or infirmary as they deem proper; such powers, however, to be distinctly specified in the by-laws. A majority of said board of managers shall constitute a quorum for the transaction of business except the sale or alienation of any of the real or personal estate of said corporation, or the leasing of any such real estate for a term longer than one year, for which purposes, or any of them the consent of three-fourths of all the members of said board shall be necessary.

[By section 8 of revision, the by-laws are to provide for election of officers, etc. This section authorized board to sell, etc., real property on consent of three-fourths of the members. By § 13 of revision this can be done on order of the court, with the concurring vote of two-thirds of the directors. Gen. Corporation L., § 29, fixes a majority of the directors as a quorum.]

§ 8. The board of managers shall make by-laws for the conduct of the affairs of the corporation. No alteration or amendment of the by-laws, nor an addition thereto, shall be made except by majority vote of the board of managers at a meeting of said board, nor unless a written notice of an intention to propose such alteration, amendment or addition at a meeting of such board to be held at a time and place mentioned in such notice has been served personally upon each member of said board at least three days prior to the time mentioned in such notice for the holding of such meeting. The vote upon all questions of change, amendment or addition to the by-laws shall be taken by calling the roll of said board, and upon such vote the ayes and nays shall be recorded in the minutes. The by-laws shall define the duties of the various officers, appointees and servants of the corporation, and of the executive committee of the board of managers. The

(Laws 1889, ch. 95; R. S., 8th ed. [Supp.], 3355.)

by-laws may specify what classes and descriptions of persons shall or may receive treatment, advice, care and maintenance from said hospital, infirmary, dispensary or home. The by-laws shall fix the dates of the annual and other elections of officers, and shall prescribe the method by which persons may be admitted to membership of the corporation, and the terms and conditions of such membership not inconsistent with the statutes of this state.

[By § 8 of revision and § 11 of Gen. Corp. L. the members instead of the directors are authorized to make by-laws, covering the subjects specified in this section. Subject, however, to the by-laws adopted by the corporation, the directors may make the necessary by-laws therefor.]

§ 9. No member of the board of managers shall receive, directly or indirectly, any compensation for his services as such member, nor for his services as president, vice-president, secretary or treasurer in case he be elected to either of such offices, nor shall any member of said board be interested, directly or indirectly, in any contract relating to the hospital, home, dispensary, infirmary or other institution maintained by said corporation, nor in any contract for the furnishing of supplies thereto.

[See note to § 12 of revision.]

§ 10. The legislature may at any time regulate any corporation formed under this act, or modify its powers, or annul its charter and dissolve such corporation.

§ 11. This act shall take effect immediately.

(L. 1889, ch. 301 amends L. 1865, ch. 368.)
(L. 1890, ch. 27 amends L. 1873, ch. 397.)
(L. 1890, ch. 68 amends L. 1875, ch. 267.)
(L. 1890, ch. 104 amends L. 1887, ch. 501.)

(L. 1890, ch. 118; R. S., 8th ed., Supp. 3413.)

Section 1. Any number of persons, not less than twenty-five, of full age, citizens of the United States and the state of New York, who shall be honorably discharged soldiers or sailors of the Union army or navy or lineal male descendants of such soldiers or sailors, who shall desire to associate themselves together for social, literary, patriotic, charitable and historical purposes, may make, sign and acknowledge before any person authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state and also in the office of the clerk of the county in which the business of such society is to be conducted, certificates in writing, in which shall be stated the name or title by which society shall be known in law, the particular objects

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3413.)

and business of such society, the number of trustees or managers who shall conduct the same, and the names of fifteen trustees or managers, one-fifth of whom shall retire at the end of the first year, and one-fifth at the end of each successive year of the existence of such corporation; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which such society is located and where its business is to be conducted, to be indorsed on such certificate.

[The provision of § 1, specifying the qualifications of incorporators, is not re-enacted, as it is covered by § 4 of the Gen. Corp. L. The provision prescribing before whom the certificate may be acknowledged, is not re-enacted, as it is covered by § 15 of the Stat. Const. L., and the provision relating to the filing of the certificate is not re-enacted, as it is covered by § 5 of the Gen. Corp. L.

The remainder of the section is re-enacted in § 110 of revision, changed only so as to require the approval of any justice of the supreme court instead of requiring the written consent and approbation of one of the justices of the district in which such society is located.]

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession and shall be persons in law capable of suing and being sued; and they may adopt and use a common seal, and may alter and change the same at pleasure; and they and their successors by their corporate name shall be capable in law of taking, receiving, purchasing and holding real estate for the purposes of this incorporation and for no other purpose, to an amount not exceeding the sum of one million dollars in value, and in addition thereto, all such cabinets, books, papers, paintings, flags, banners, statues, medals, relics, trophies, historical evidences and other personal estate as shall be necessary for maintaining the objects and carrying into effect the purposes of said corporation. And all sums over and above the necessary expenses and maintenance of such society and property, and to satisfy principal or interest upon any mortgages, loans or bonds, shall be reserved and held by said managers as a fund for purchase of memorials, preservation of relics and historical evidences and trophies, and for charity to union veterans, their families or descendants, and they may make by-laws for the conduct of its affairs not inconsistent with the laws of this state

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3414.)

or the United States, and shall have power to elect and appoint the officers and agents of such society and allow them a suitable compensation.

[The provisions of § 2 relating to the general powers of the corporation are not re-enacted, as they are covered by § 11 of the Gen. Corp. L. The amount of property which such corporations may hold is omitted because being non-stock corporations § 12 of the Gen. Corp. L. will apply. The remainder of such section relating to the reservation of certain moneys as a fund for purchase of memorials, etc., is re-enacted without change of substance in § 112 of revision.]

§ 3. The said real and personal estate, however invested, together with the property in said cabinets, books, papers, paintings, flags, banners, statues, medals, relics, trophies and historical evidences, shall be divided into bonds of one hundred dollars each, which shall be deemed personal property and be transferable as such. Each subscriber shall be liable individually to the amount unpaid on the bonds held by him and no more, for all the debts and liabilities of such corporation.

[Section 3 is re-enacted in § 111 of revision, modified so as to permit, but not require, a division of the property into shares.]

§ 4. There shall be a board of fifteen trustees of every corporation formed under this act to manage its affairs, and said trustees shall be chosen, by ballot, for terms of five years each; three to be chosen each successive year by a majority of votes of the bondholders voting at such election in such manner as may be prescribed by the by-laws, and they shall continue and be trustees until others are elected in their places. Vacancies shall be filled by the trustees as the by-laws shall provide. A failure to hold or make an election shall not dissolve said corporation, and the trustees, in such case, shall provide for a new election, which election the trustees shall cause to be duly made. The inspectors of the first election shall be chosen by the board of trustees named in the certificate. Subsequent inspectors shall be elected in the same manner and at the same time as the trustees.

[The provision relating to a failure to hold an election is not re-enacted, as it is covered by § 23 of the Gen. Corp. L. Section 110 of revision fixes the number of directors at fifteen. Section 8 of revision authorizes the adoption of by-laws regulating elections, the filling of vacancies, etc.]

§ 5. The annual meeting of said corporation for the choice of treasurer and other business, shall be held on the last Monday of

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3415.)

January, in each year, or such other day as the corporation shall, in its by-laws, prescribe for that purpose, and special meetings thereof shall be called on the requisition of holders of one-tenth in amount of the bonds made in writing to the board of trustees, which requisition shall express the object of such meeting. The by-laws shall not be amended, altered or repealed, except at the annual meeting or special meeting duly called as prescribed therein, notice of which shall be given in all notices therefor. At every meeting of the corporation the owner in his own right of the bonds of the corporation, shall be privileged to cast one vote for every bond so held, provided the same be produced or evidence of such ownership be lodged with the trustees and entered on the books of the same. Bonds of the corporation shall be secured by mortgage and the interest payable thereon shall be at the rate per centum fixed in said instrument of mortgage, but not to exceed six per cent. Authority to mortgage the property of the corporation shall be by resolution of the corporation at its annual meeting or a meeting specially called for that purpose as aforesaid. Second mortgage bonds may be prepared and furnished to subscribers and interest thereon in money not exceeding six per cent per annum may be paid by the vote of the trustees, annually, at the rate and amount earned and received by the corporation as shown by the statement at the annual meeting, to every owner and holder without distinction or difference, except as hereinafter provided.

[The certificate of incorporation may fix the time of the annual meeting. It may then be changed pursuant to § 15 of revision. The by-laws (§ 8) may fix the rights of bondholders to vote. Real property can only be mortgaged or sold pursuant to § 13 of revision with the concurring vote of two-thirds of the directors, and on leave of the court.]

§ 6. No person shall hold and exercise the office of trustee unless he be a bondholder, holding bonds in his own right; and in addition thereto shall be either an honorably discharged soldier or sailor from the army or navy of the United States, or the lineal male descendant of such soldier or sailor of the United States of America or army of the associated colonies which established the United States, and only such persons shall vote for such trustees. The by-laws shall determine what evidence shall be required to establish the right to vote for trustees and eligibility thereto, and the inspectors shall enforce the same. The trustees shall appoint from their own number a president and other officers, but such officers shall not receive any salary or money compen-

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3415.)

sation therefor. They may also appoint such necessary agents and servants as the by-laws shall prescribe.

[Section 10 of revision provides that the directors shall be elected from among the members, but by-laws adopted pursuant to § 8 may prescribe additional qualifications. The by-laws may also regulate the qualification of voters, the manner of conducting elections, and the manner of choosing officers.]

§ 7. The estate, property and funds of said corporation shall be owned, held for and devoted solely to the patriotic, historical and charitable uses and purposes and objects of union veterans, honorably discharged from the army or navy of the United States of America, and the descendants of such union veterans of the United States and the colonies which formed the same, and while so owned, held and devoted, shall be free from all taxation by the laws of this state.

[Omitted as unnecessary, being fully covered by L. 1893, ch. 498.]

§ 8. Every corporation formed under this act shall have power, from time to time, to borrow such sums of money as shall be necessary to construct, complete, operate or extend its building, library, museum, gallery, or the furniture and appurtenances thereof, and to issue its bonds for any amount so borrowed, and to mortgage its corporate property to secure the payment of any debt contracted by the corporation for the purposes aforesaid.

[Omitted. Under § 13 of revision the corporation can mortgage its property with the concurring vote of two-thirds of its directors, and on leave of the court.]

§ 9. All corporations formed under this act, together with its books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose; and it shall be the duty of the trustees or a majority of them, in the month of December of each year, to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands stating the names of the trustees and officers, an inventory of the property, effects and liabilities, with an affidavit of the correctness of the same and that the corporation has not been engaged directly or indirectly in any other business than such as is set forth in its certificate of incorporation.

[The corporation is subject to visitation of supreme court under § 16 of revision. The provision requiring filing of annual inventory is omitted, but by § 11 the directors are required

(Laws 1890, ch. 118; R. S., 8th ed. [Supp.], 3415.)

to make an annual report to the corporation; and the filing of an inventory may be required by the court where mismanagement is shown, under § 16 of revision.]

§ 10. Every corporation formed under this act shall have the powers and be subject to the restrictions contained in the revised statute.

§ 11. This act shall in all courts and places be construed benignly and favorably for any benefit and purpose therein intended; and notwithstanding any misnomer or misdescription of said corporation in any will, deed, gift, grant, demise or other instrument of contract or conveyance to or for its use, the same shall take effect in like manner as if said corporation were rightly named, provided it be sufficiently described to ascertain the intent of the parties.

§ 12. This act shall take effect immediately.

[Sections 10-11 are not re-enacted.]

(L. 1890, ch. 229 amends L. 1847, ch. 133.)

(L. 1890, chap. 425; R. S., 8th ed. [Supp.], 3455.)

Section 1. Any corporation which has been heretofore or which shall be hereafter organized under chapter three hundred and nineteen of the laws of eighteen hundred and forty-eight, entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," or under the said act as amended, may from time to time extend its business and objects to any business or objects authorized by the provisions of said chapter three hundred and nineteen of the law of eighteen hundred and forty-eight as amended, although said business and objects are not specified in its certificate of incorporation as originally filed, on obtaining the consent to such extension of not less than two-thirds of the trustees, directors or managers of such corporation, and also the consent of such corporation if it shall consist of other persons than said trustees, directors or managers, such consent to be obtained, and such extension effected, in the following manner: Not less than two thirds in number of the trustees, directors or managers of such corporation, as fixed by its original certificate of incorporation or by any certificate duly executed, approved and filed increasing or decreasing the same, may sign and acknowledge in the same manner as the original certificate of incorporation is required to be signed and acknowledged, a certificate in writing stating the particular business

(Laws 1890, ch. 425; R. S., 8th ed. [Supp.], 3455.)

and objects of said corporation as extended to which certificate there shall be attached, if said corporation is composed of other persons than said trustees, directors or managers, a certified copy of a resolution of said corporation, adopted by a two-thirds vote of the members thereof present and voting at a meeting of said corporation regularly called and held pursuant to its constitution, by-laws or rules, and at which a quorum was present, to the effect that the business and objects of said corporation be extended as provided in such certificate, which resolution and the facts as to its adoption as herein required shall be certified by the president and secretary of said meeting, and which said certificate of extension and resolution so certified, after the same and the business and objects therein specified have been consented to and approved by a justice of the supreme court of the district in which said corporation is located, said consent and approval to be indorsed thereon, shall be filed in the office of the secretary of state, and in the office of the clerk of the county in which the original certificate of incorporation is filed; and on and after the filing of said certificate and resolution such corporation shall be authorized to engage in, conduct, prosecute and promote the business and objects specified in the certificate so made and file the same as if such business and objects were specified in the original certificate of incorporation and said original certificate shall be deemed amended accordingly; provided, however, that the provisions of this act shall not apply to any corporation organized for the purpose of carrying on the business of insurance of any kind upon any plan, and that nothing herein contained shall authorize any corporation organized for other purposes than carrying on the business of insurance to extend its business or objects to the carrying on of the business of insurance of any kind upon any plan, and that nothing herein contained shall authorize any corporation to extend its business to the conducting and carrying on of any literary or scientific college or university without the approval of the regents of the university of the state of New York, as required by chapter three hundred and sixty-seven of the laws of eighteen hundred and eighty-two, and that nothing herein contained shall authorize any corporation to extend its business or objects to the care or disposal of orphans, paupers or destitute children except with the approval of the state board of charities, as required by chapter four hundred and forty-six of the laws of eighteen hundred and eighty-three.

[See note to § 4 of revision.]

(L. 1891, ch. 10 amends L. 1855, ch. 425.)

(L. 1891, ch. 167; R. S., 8th ed. [Supp.], 3499.)

Section 1. Any twenty or more women being citizens and residents of this state and being desirous of associating themselves for the improvement of the spiritual, mental, moral and physical condition of young women by meetings for public worship, by academical instructions, by the maintenance of a public library and reading room, and by such other means not inconsistent with the objects of the association as its executive board may devise, may make, and sign and acknowledge before an officer authorized to take acknowledgments of deeds in this state, and with the written consent and approval of one of the justices of the supreme court, file in the office of the secretary of state, and in the office of the clerk of the county in which such society is to have its principal office, a certificate in writing in which shall be stated the corporate name of said association, the objects for which the association shall be formed, the place wherein its principal office shall be located, and its business carried on, the number of its directors or managers, and the names of those who shall be such managers or directors for the first year of its existence.

[Re-enacted in § 90 of revision without change of substance.]

§ 2. Upon filing such certificate, the persons who shall have signed and acknowledged the same and their associates and successors shall thereupon, by virtue of this act, become a body politic and corporate by the name designated in said certificate, and by that name, they and their successors shall and may have succession and be capable of suing and being sued, and they and their successors may have and use a common seal and may alter and change the same at pleasure, and by such corporate name, shall be capable of taking, receiving, purchasing and holding, by gift, grant, devise or otherwise, and of conveying, selling, leasing, mortgaging and pledging, or otherwise disposing of, any real estate or any personal property, or any part or parcel thereof, or any interest therein, for the purposes of their association, and shall have power to make a constitution and by-laws for the management of the affairs of such association not inconsistent with the constitution and laws of this state, and to alter and amend the same under such rules as may be provided therein, and to elect and appoint the other officers and agents thereof and to provide for the salaries and compensation of the same.

[The provision that on filing certificate, the corporation is formed is in § 90 of revision. The general powers of the corporation are in Gen. Corp. L., § 11. The power to make by-laws is in § 8 of revision.]

(Laws 1891, ch. 167; R. S., 8th ed. [Supp.], 3500.)

§ 3. The corporate powers of the said association, except as herein otherwise provided, shall be vested in an executive board or board of directors or managers, all of whom shall be active members of the association.

[Section 29 of Gen. Corp. L. provides that the directors shall have the management of corporate affairs. Section 10 of revision provides that the directors shall be elected from among the members.]

§ 4. Any young women's christian association heretofore organized under any law of this state, for all or any of the objects specified in this act, and now existing, may accept the provisions of this act by a majority vote of its executive board or board of directors or managers and of its active members, respectively, at any meeting called for the purpose; and upon filing in the office of the county clerk of the county in which is located the principal place of business of said association and in the office of the secretary of state, a certificate of such action duly acknowledged by the president and secretary of the association, said association shall thenceforth be an incorporation under and with all the powers and privileges of this act, and the property of said theretofore existing association shall be vested therein; and the persons constituting the executive board or the board of directors or managers and the officers of such prior organization shall constitute the first executive board or board of directors or managers, and the officers of the association thereby created, and the term of office of the several members of the executive board or board of directors or managers and of the officers shall continue until the expiration of the several periods for which they were respectively elected. Thereafter the executive board or board of directors or managers and officers shall be elected in such numbers and for such functions and periods and all vacancies shall be filled in such manner as shall be provided for in the constitution or by-laws of said association.

[By § 6 of revision, corporations organized under special laws may reorganize under the Membership Corporations Law. See note to § 6.]

§ 5. The active members of any association created under or taking advantage of the privileges of this act may make and adopt such constitution as they may deem desirable, and may alter or amend the same under such rules as shall be prescribed therein, provided that such constitution shall be consistent with the provisions of this act and with the laws of the state of New York.

(Laws 1891, ch. 167; R. S., 8th ed. [Supp.], 3500.)

The constitution and by-laws of any association accepting the provisions of this act, as in section four provided, shall continue to be the constitution and by-laws of said association until altered, amended or repealed in accordance with the same, subject, however, in all respects to the provisions of this act.

[Section 8 of revision authorizes adoption of by-laws. The provision that the constitution and by-laws of the incorporated society become the constitution and by-laws of the corporation until altered or amended, is omitted.]

§ 6. The real estate of such association and all permanent funds acquired by it by gift, devise, bequest or otherwise, and accepted by the association for permanent investment, shall be managed and controlled by a board of trustees, not less than five in number, which number shall be determined by the constitution or by-laws of said association, and who shall, in the first instance, be elected by the executive board or board of directors or managers thereof, and who shall have power to adopt appropriate by-laws for their organization and transaction of business. Thereafter whenever a vacancy shall occur in said board of trustees the same shall be filled by a majority vote of the trustees remaining, from one or more nominations made to said board, by the executive board or board of directors or managers of said association. The said board of trustees shall securely invest and keep invested, in the name of said association, all funds which come under their control, and shall collect and receive the income from the same and the rentals from the real estate of said association, and shall sacredly devote the property of the association, of which they have the management and control, and the net income and rentals thereof, exclusively to the purposes of said association; and shall pay over to the treasurer of the association said net income and rentals so long as the same shall be devoted to the objects of the association and no longer. No conveyance, sale, lease for more than one year, mortgage, or other disposition of the real estate of said association, or of any part or parcel thereof or of any interest therein, shall be valid without a majority vote of the executive board or board of directors or managers of said association and of the board of trustees, respectively, at a meeting of each of said boards regularly called by a written notice, stating the object of said meeting and duly mailed or personally delivered to each member thereof at least three days before said meeting, nor without the written consent of three-fourths of all the members of said board of trustees.

[Section 90 of revision fixes the number of trustees at six, and § 91 gives to the trustees, instead of the directors, the control of

(Laws 1891, ch. 167; R. S., 8th ed. [Supp.], 3501.)

the real property. The number of directors is fixed by § 90 at not less than three nor more than thirty. Under § 8 of revision, directors are elected and vacancies filled as provided by the by-laws. Under §§ 11 and 91 of revision, the real property of the corporation can only be sold, etc., by order of the court, with the concurring consent of two-thirds of the trustees.]

§ 7. The said association shall possess the general powers, and be subject to the general restrictions and liabilities prescribed in chapter eighteen, part one, title three of the revised statutes.

[Section 11 of Gen. Corp. L., prescribing general powers of corporations, applies to membership corporations.]

(L. 1891, Chap. 213; R. S., 8th ed. [Supp.], 3504.)

Section 1. Five or more persons of full age, citizens of the United States and a majority of them residents of this state, may become a corporation for the purposes of investigating, ascertaining and keeping a record of the pedigrees of any kind of domestic animals, and of instituting, maintaining, controlling and publishing a stud book, herd book or book of registry of such kind of domestic animals, in the United States of America and Canada, and of promoting and holding exhibitions of such animals, and generally for the purposes of improving the breed thereof; by making, acknowledging and filing a written certificate, stating the name by which the corporation shall be known, its particular objects and purposes, which shall be one or more of the purposes hereinbefore specified, the number of directors not less* three nor more than twenty-one who shall manage its affairs, the time when the first annual meeting of the members of the corporation shall be held, the names and places of residence of the directors who shall manage its affairs until such first annual meeting and the town, village or city in which its principal office is or is to be located. Upon filing such certificate in the office of the secretary of state and a certified copy thereof, with the certificates of record thereof, in the office of the clerk of the county in which such principal office is or is to be located, the persons signing such certificates, their associates and successors shall become a corporation for the purposes in such certificates specified.

[Sections 30 and 31 of revision fix number of directors at not less than three nor more than thirty.]

§ 2. Such corporation may by its by-laws not inconsistent with law, define the terms and qualifications upon which entries shall be made in such book of registry, stud book or herd book, and of controlling, passing upon and admitting or rejecting all appli-

*So in the orginal.

(Laws 1891, ch. 213; R. S., 8th ed. [Supp.], 3504.)

cations for the making of entries therein, for the admission, suspension and expulsion of members, for the number and election of its officers and the defining of their duties, the time and place for the election thereof, and the manner in which any vacancy in any office of the corporation shall be filled, and generally for carrying out its corporate purposes. Such corporation may, from time to time, alter, modify or change such by-laws, but not so as to be inconsistent with law.

[By-laws regulating these subjects may be adopted pursuant to Gen. Corp. L., § 11, or § 8 of revision.]

(L. 1891, ch. 344; R. S., 8th ed. [Supp.], 3513.)

Section 1. It shall be lawful for the owner of any cemetery plot originally purchased from any cemetery association duly organized under the general laws of the state of New York, to bargain, sell, transfer or dispose of said plot; provided, however, there is no interment in said plot bargained, sold or transferred, and said bargain, sale and transfer shall be subject to the approval of the president of said cemetery association, which manage the grounds in which the said plot be situate.

§ 2. The secretary of said cemetery association shall file and record on the books belonging to said cemetery association the deed of transfer of said cemetery plot when said deed of transfer shall have been presented and approved as provided in foregoing section, on payment of a fee of twenty-five cents for service in filing and recording said deed of transfer.

§ 3. Any act or parts of an act inconsistent with this act is hereby repealed.

§ 4. This act shall take effect immediately.

[Section 1 is re-enacted without change of substance in § 49 of revision. Section 2 is not re-enacted.]

(L. 1891, ch. 382 amends L. 1847, ch. 133.)

(L. 1892, ch. 197; R. S., 8th ed. [Supp.], 3521.)

Section 1. The members of any benevolent, charitable, or hospital corporation may, at any annual or adjourned annual meeting, or at any special meeting duly called for that purpose with notice of such purpose, reduce the number of directors to not less than three, or increase the number to not more than thirty, by a vote of a majority of the members present at such meeting, and the existing directors, or a majority of them, shall make and sign a certificate in duplicate of such reduction or increase and file the same in the offices where the certificates of incorporation

(Laws 1892, ch. 197; R. S., 8th ed. [Supp.], 3521.)

were filed; and from and after such filing the number of directors shall be the number stated in such certificate. In case of a reduction all the existing directors shall serve until their term shall have expired, and there shall be no election of directors until by expiration of term the number of existing directors shall be less than the number specified in the certificate. In case of the increase of the number of directors, the places of the additional directors provided for shall be deemed vacant and shall be filled as vacancies in the office of a director may be filled. (As am. by L. 1893, ch. 180.)

[Re-enacted in § 14 of revision without change in substance.]

(L. 1892, ch. 291 amends L. 1888, ch. 490.)

(L. 1892, ch. 333; R. S., 8th ed. [Supp.], 3532.)

Section 1. Whenever there shall be a vacancy in the office of trustee of any corporation organized by or under the laws of this state for charitable or benevolent purposes, and if the same shall not be filled within six months after it shall have occurred either for want of a by-law, or other provision for filling the same, or because by reason of the absence, illness or other inability to act of one or more of the remaining trustees a quorum of the board of trustees can not be obtained, then it shall be lawful for the remaining trustees of said corporation, or a majority of them, to appoint in writing a citizen of this state, to fill such vacancy and such appointment when duly approved by a judge of the supreme court, and filed in the office of the clerk of the county in which said corporation is located, shall constitute such person a trustee of said corporation, subject to its constitution and by-laws.

[Re-enacted in § 10 of revision, but the appointment of "a citizen," is changed to the appointment of a member of the corporation. See note to that section.]

§ 2. This act shall take effect immediately.

(L. 1892, ch. 498; R. S., 8th ed. [Supp.], 3603.)

Section 1. It shall be legal for any cemetery association heretofore or hereafter formed under and in pursuance of the act, entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to take, hold and convey for the convenient transaction of the general business of the corporation, real estate of the value of two hundred thousand dollars, within the county where their cemetery lands are situated, and in an adjoining county, adjacent thereto, provided, however,

(Laws 1892, ch. 498; R. S., 8th ed. [Supp.], 3603.)

that no portion of said real estate shall be used or occupied for the burial or other disposal in vaults or mausoleums of the dead. And, provided, further, that such real estate shall not be exempt from public taxes, rates and assessments.

§ 2. This act shall take effect immediately.

[This chapter is re-enacted, without change of substance, in § 45 of revision.]

(L. 1892, ch. 597 amends L. 1875, ch. 267.)
(L. 1893, ch. 34 amends L. 1847, ch. 133.)
(L. 1893, ch. 180 amends L. 1892, ch. 197.)
(L. 1893, ch. 465 amends L. 1875, ch. 267.)
(L. 1893, ch. 602 amends L. 1859, ch. 36.)

(Laws 1894, ch. 709.)

Section 1. Whenever the number of incorporators of any corporation organized by or under the laws of this state for charitable or benevolent purposes, shall, from any cause be reduced below the number of original members as provided by the law creating any such corporation, or provided in its articles of incorporation, if organized under the general laws, and if there is no authority of law for filling vacancies, it shall be lawful for the directors of any such corporation, or a majority of them, to appoint in writing as many persons as incorporators as shall be necessary to make up the number of original incorporators, and such appointments when duly approved by a judge of the supreme court, and filed in the office of the clerk of the county in which said corporation is located, shall constitute such persons incorporators of said corporation.

[Omitted as unnecessary. The by-laws can provide fully in regard to the admission of members.]

(Laws 1897, ch. 709.)

Section 1. It shall be lawful for any cemetery association, duly incorporated under the act authorizing the incorporation of rural cemetery associations, to dispose of its land from which all bodies have been removed with the consent of the former owners of the lots in which such bodies had been interred, upon proving to the satisfaction of the supreme court of the district where its land is located, that all bodies have been removed from said lots with the consent of the former owners thereof, and properly and decently interred in some other cemetery; that all said lots and parts of lots have been reconveyed to said cemetery association and are not used for burial purposes; that burials have been prohibited in said cemetery; that all parties interested in said cemetery as trustees or creditors consent thereof, and that its debts and liabilities have been paid. The supreme court may in its discretion, appoint a referee to take proof of the facts above stated. Upon being satisfied that such cemetery association has complied with the requirements above stated, the court may make an order authorizing it to sell and dispose of its said land.

§ 2. This act shall take effect immediately.

EXPLANATORY NOTE

TO

RELIGIOUS CORPORATIONS LAW.

[The following memorandum in explanation of the Religious Corporation Law is in the report of the commissioners of Statutory Revision.]

This chapter is intended to be a substitute for all existing general laws for the creation and temporal administration of religious corporations. The laws which it will supersede and repeal are mainly contained in the eighth edition of the Revised Statutes from pages 1881 to 1921, inclusive, except Laws 1883, chapter 257, at pages 1913-16, which is a special law and will be left untouched by the revision.

All the provisions of the laws so repealed, retained in the revision, are contained in the General Corporation Law, or in this chapter, except Laws 1853, chapter 323, 1835, chapter 90, section 9, relating to change of name of religious corporations, which is incorporated in section 2410 ff. of the Code of Civil Procedure.

The first general law of this State for the incorporation of churches was chapter 18 of the Laws of 1784, seventh session, and was applicable to all denominations. Certain features of the Dutch Reformed church did not harmonize with this law and a second general law was enacted, chapter 61, Laws of 1788, eleventh session, applicable only to Dutch Reformed churches. For similar reasons a third general law, applicable only to Protestant Episcopal churches, was enacted, chapter 25, Laws of 1795, eighteenth session. These three statutes were consolidated in chapter 79 of the revision of 1801, which was substantially re-enacted as chapter 60 in the revision of 1813, which was not

included in the Revised Statutes, and, as amended to date, is still in force.

The general law of 1795, for the incorporation of Episcopal churches, was made the basis of section 1 of the act of 1813, now consisting of eighteen subdivisions; the general law for the incorporation of Dutch Reformed churches was made the basis of section 2 of the act of 1813; and the first general law of 1784, originally applicable to all churches, was made the basis of section 3. Separate statutes have since been passed for the incorporation of Roman Catholic churches, Laws 1863, chapter 45; of Greek churches, Laws 1871, chapter 12; of Baptist and Congregational churches, Laws 1873, chapter 633, repealed by chapter 50 of Laws 1890; of Baptist churches, Laws 1876, chapter 329, and many supplemental and amendatory statutes have been passed since 1813, some of which made special provisions for particular denominations.

Many useful provisions of the present law, now applicable to incorporated churches only, are extended by article 1 to all religious corporations. Throughout the revision the members of the church or congregation instead of the trustees are made the corporation. The provision of the present law, occurring in almost every act relating to the incorporation of churches, requiring the filing of an annual or triennial inventory and account, is omitted from the revision, and a judicial inquiry as to the amount of its property is substituted by section 13. The old provision was practically obsolete and rarely observed. So too all limitations on the amount of property which a religious corporation is enabled to hold are omitted from the revision, as superseded by section 12 of the General Corporation Law, which greatly extends the powers of nonbusiness corporations in respect to the holding of property.

Article 1 is applicable to all religious corporations. The material changes of substance in this article are as follows:

The provision of the present law that the seats in churches which are originally established as free church corporations shall be forever free, is omitted from section 6 of revision.

Section 7 of revision authorizes properly executed deeds of lots in the cemetery of a religious corporation to be recorded.

The present law makes the trustees of a common parsonage a corporation, while by § 9 of revision they are merely made the managing agents of the contributing corporations.

Section 10, relating to the correction and confirmation of conveyances, enlarges materially the cases in which corrections can be made, and provides a scheme whereby a conveyance incorrectly stating the name of a corporation is made presumptively valid.

The provision of the present law, prohibiting the sale of "Gospel lots," is omitted from section 11 of revision, as obsolete.

Section 12, providing for the consolidation of religious corporations, allows the new church to be a different denomination than either church consolidating; but this is deemed sufficiently guarded by the provision that the governing body of each consolidating church shall consent to the consolidation.

Section 16, providing for the incorporation of mission and Sunday school corporations, is new.

Article 2 of the revision contains the special provisions applicable to Episcopal churches. The article was prepared after consultation with an eminent authority of the church, and embodies, it is believed, the views of that denomination. Several changes are made in the present law, as appear from the notes to the sections of the articles.

Article 3 of the revision contains the special provisions applicable to Roman Catholic and Greek churches. The provision of section 30, that during a vacancy in the office of archbishop or bishop, the administrator of the diocese and his vicar and representative shall be trustees, is new.

Section 11 provides that the real property of a Roman Catholic church shall not be sold, mortgaged or leased without the consent of the archbishop or bishop, or in case of their absence or inability to act, of the vicar-general or administrator of the diocese.

These changes were made on the request of the authorities of that denomination.

Article 4 contains the special provisions relating to Reformed Dutch, Reformed Presbyterian and Lutheran churches. The material change made by this article is in allowing churches of this class to incorporate, originally, either by the ex officio or elective method of choosing trustees.

Article 5 contains the special provisions for the incorporation and government of churches of other denominations. The material change is in the qualification of voters. Section 82 provides for a uniform qualification. It does not change substantially the qualification of voters in Baptist churches. The qualification of voters for other churches, generally, has remained unchanged since Laws 1784, except for the amendment of 1867, chapter 656, striking out the word "male;" and by the present law is as follows: "Every person of full age who has statedly worshipped with such church, congregation or society, and has formerly been considered as belonging thereto." The indefinite character of this statement was illustrated in People ex rel. Sturgess v. Keese, 27 Hun, 484. The change proposed has the advantage of a uniform statement for all churches, and will tend to diminish doubted controversy.

Article 6 contains the special provisions for the incorporation of two or more churches as a union church, without material change.

The appendix following this chapter of the proposed revision contains all the statutes proposed to be repealed hereby. Cross references and notes explaining the principal changes in language, and all changes in substance, are appended to the several sections of the proposed revision and of the existing statutes set out in the appendix.

THE RELIGIOUS CORPORATIONS LAW.

LAWS OF 1895, CHAPTER 723.

AN ACT in relation to religious corporations, constituting chapter forty-two of the general laws.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER XLII OF THE GENERAL LAWS.

The Religious Corporations Law.

Article I. Provisions applicable to religious corporations generally. (§§ 1-18.)

II. Special provisions for the incorporation and government of Protestant Episcopal parishes or churches. (§§ 30-36.)

III. Special provisions for the incorporation and government of Presbyterian churches. (§§ 37-47.)

IV. Special provisions for the incorporation and government of Roman Catholic and Greek churches. (§§ 50-51.)

V. Special provisions for the incorporation and government of Reformed Dutch, Reformed Presbyterian and Lutheran churches. (§§ 60-66.)

VI. Special provisions for the incorporation and government of Baptist churches. (§§ 67-77.)

VII. Special provisions for the incorporation and government of Congregational and Independent churches. (§§ 78-78k.)

VIII. Special provisions for the incorporation and government of churches of other denominations. (§§ 83-93.)

IX. Special provisions for the incorporation and government of two or more unincorporated churches as a union church. (§§ 100-101.)

X. Laws repealed; when to take effect. (§§ 110-111.)

ARTICLE I.

Provisions Applicable to Religious Corporations Generally.

Section 1. Short title.
2. Definitions.
3. Filing and recording certificates of incorporation of religious corporations.
4. Property of unincorporated society transferred by its incorporation.
5. General powers and duties of trustees of religious corporations.
6. Acquisition of property by religious corporations for branch institutions; management thereof.
7. Acquisition of property by religious corporations for cemetery purposes; management thereof.
8. Removal of human remains from one cemetery of a religious corporation to another cemetery owned by it.
9. Acquisition of property by two or more religious corporations for a common parsonage.
10. Correction and confirmation of conveyances to religious corporations.
11. Sale, mortgage and lease of real property of religious corporations.
12. Consolidation of incorporated churches.
13. Judicial investigation of amount of property of religious corporations.
14. Corporations with governing authority over churches.
15. Property of extinct churches.
16. Corporations for organizing and maintaining mission churches and Sunday schools.
17. Corporations for acquiring parsonages for presiding elders and camp-meeting grounds.
18. Application of this chapter to churches created by special laws.
19. Application, etc.
20. Calling of a minister, etc.
21. Worship.
22. [illegible]
23. Corporations for acquiring camp meeting grounds for the Reformed Methodist denomination.

Section 1. Short title.— This chapter shall be known as the religious corporations law.

[A religious corporation organized under or subject to the provisions of this chapter to determine its powers and duties must refer, first, to the general corporation law, which is applicable to all corporations; second, to article I of this chapter, which is applicable to all religious corporations; and third, to the article of this chapter containing the provisions specially applicable to the class of religious bodies to which the corporation belongs.

If the provisions of this chapter conflict with any provision of the general corporation law, the provisions of this chapter must prevail. Gen. Corp. L., § 33.

For a review of early legislation affecting religious societies, see note of revisers immediately preceding this chapter.]

§ 2. **Definitions.**—A religious corporation is a corporation created for religious purposes.

An incorporated church is a religious corporation created to enable its members to meet for divine worship or other religious observances.

An unincorporated church is a congregation, society, or other assemblage of persons who are accustomed to statedly meet for divine worship or other religious observances, without having been incorporated for that purpose.

The term minister, includes a clergyman, pastor, rector, priest, rabbi, or other person having authority from, or in accordance with, the rules and regulations of the governing ecclesiastical body of the denomination or order, if any, to which the church belongs, or otherwise from the church, to preside over and direct the spiritual affairs of the church.

[This section is new.

Nature of the corporation.—A religious corporation possesses no powers not conferred by statute. People v. Hurlbert, 46 N. Y. 110.

They are not ecclesiastical corporations in the sense of the English law, but are to be regarded as private civil corporations, governed by the ordinary rules of the common law, not subject to the visitorial jurisdiction of a court of equity, except as such power is conferred by the statute. Robertson v. Bullions, 11 N. Y. 243; Watkins v. Wilcox, 4 Hun, 220; Kinskern v. Lutheran Churches, 1 Sand. ch. 439.

Three distinct classes or bodies are interested in the incorporation of a Christian church,— the church proper or spiritual body consisting of

its office-bearers and other communicants, the congregation or electors, and, the directors or trustees. Lawyer v. Cipperly, 7 Paige, 281.

Jurisdiction of legal tribunals.— The legal tribunals of the state have no jurisdiction over the church or spiritual body as such, the tenets of its creed or the forms and discipline of its polity; and, in relation to these matters, a decision of the ecclesiastical judicatories where they have jurisdiction according to the canons of the church, is not reviewable by the civil courts. Baptist Church in Hartford v. Witherell, 3 Paige, 296; Connitt v. The Reformed, etc., Church, 54 N. Y. 551, 563.

Thus a court will not inquire whether a bishop is acting discreetly in removing a minister, but merely whether the bishop has power to act. The only ground upon which a court can question the action of the bishop is that removal may affect the civil rights of the minister. Walker v. Wainwright, 16 Barb. 486.

The decision of the ecclesiastical judicatories as to their own jurisdiction in ecclesiastical matter, should receive great weight in civil courts. Where such tribunals have jurisdiction, civil courts can not inquire whether they proceeded according to the laws and usages of their church, or whether they have decided correctly. Connitt v. The Reformed, etc., Church, 54 N. Y. 551.

Matters of faith are wholly within the jurisdiction of the church authorities. Baptist Church in Hartford v. Witherell, 3 Paige, 296.

Who compose the corporation.— The religious corporation proper as distinguished from the church or spiritual body consists, not of the communicants or members of the church on the one hand, or the trustees on the other, but of every member of the society having the privilege of voting. Wyatt v. Benson, 23 Barb. 327; Robertson v. Bullions, 11 N. Y. 243; Baptist Church in Hartford v. Witherell, 3 Paige, 296; Cram v. Evan. Luth. Soc., 36 N. Y. 161. This was the law prior to the revision, and by the provisions of §§ 31 and 83 the qualified voters are expressly made the corporation. Thus a religious corporation under its rules and discipline may exclude a member from spiritual privileges, but can not deprive him of his rights as a corporator. People v. German Church, 53 N. Y. 103; reversing 6 Lans. 172. Such a disfranchisement is an absolute nullity and a mandamus will not lie to restore the corporator to membership. Id.

Corporations heretofore formed.— Corporations heretofore incorporated under laws repealed by this chapter will be governed by its provisions, the new law being in effect a modification or amendment of the law repealed. (See Gen. Corp. L., § 36; Statutory Construction L., § 32.). But religious corporations existing prior to 1828, when the right to repeal or alter corporate charters was first reserved by the legislature, are not bound by subsequent legislation affecting corporate rights, unless adopted by the corporation; and the rights and franchises of a private corporation organized under a general law are as inviolable as if organ-

ized by special charter. People ex rel. Sturges v. Keese, 27 Hun, 483; The Dartmouth College Case, 4 Wheat. 518; Terrett v. Taylor, 9 Cranch, 43; Pawlet v. Clark, 9 Cranch, 292.

Contracts with religious corporations.— One contracting with a religious corporation is bound to know the provisions of its constitution and by-laws, as to limitations on the powers of its officers. Hart v. The Trustees, etc., 49 Super. Ct. (17 J & S.) 523.

A contract made with trustees de facto in possession, by one who has no knowledge of the illegality of their election, is binding on the corporation. Ebaugh v. German Reformed Church, 3 E. D. Smith, 60. But after a court has declared the election of trustees illegal, they can not bind the corporation. Id.

The president of a religious corporation can not sue upon a claim in its favor in his own name. Lowenthall v. Wiseman, 56 Barb. 490.

Books as evidence.— The books and minutes of a corporation are as a rule, evidence of the acts of the corporate body, and if not suspicious may be referred to in order to show the regularity of its proceedings. Abernethy v. The Society, etc., of the Puritans, 3 Daly, 1.

Church fairs.— A religious corporation, it seems, has no power to conduct a fair. Constant v. Rector, etc., 4 Daly, 405.

Actions by and against.— An action by the trustees should be brought in the name of the corporation. Bundy v. Birdsall, 29 Barb. 31; People v. Fulton, 11 N. Y. 94.

In an action by a religious corporation, it must prove itself to be a corporation de facto and for this purpose, proof of a statute under which it might incorporate is sufficient. M. E. Union Church v. Pickett, 19 N. Y. 482.

The fact of incorporation may be proved by the religious certificate of incorporation (Jackson v. Leggett, 7 Wend. 377), or by a certified copy in pursuance of § 933 of the Code of Civil Procedure which makes the certified copy evidence as if the original was produced.

A subscriber to the erection of an edifice of a religious corporation may deny its corporate existence, but he can not take advantage of an imperfection in the record, or certificate of incorporation. M. E. Union Ch. v. Pickett, 19 N. Y. 482.

One who accepts office in a religious corporation is estopped from denying its corporate existence. All Saints' Church v. Lovett, 1 Hall's Superior Ct. 191.

The rector, church wardens, etc., of an incorporated church can not maintain replevin, for the corporate seal against the treasurer of the church, if a rule of the church declares that the treasurer shall "safely keep the corporation seal." Rector, etc., v. Blackhurst (Common Pleas, N. Y.), 11 N. Y. Supp. 669.]

§ 3. Filing and recording certificates of incorporation of religious corporations. — The certificate of incorporation of a religious corporation shall be acknowledged or proved before an

officer authorized to take the acknowledgment or proof of deeds or conveyances of real estate, to be recorded in the county in which the principal office or place of worship of said corporation is or is intended to be situated, and shall be filed and recorded in the office of the clerk of said county. If there is not, or is not intended to be, any such office or place of worship, the certificate shall be filed and recorded in the office of the secretary of state.

Amended by chap. 336, L. 1896. In effect April 21, 1896.

[L. 1813, ch. 60, § 1, sub. 18; R. S., 8th ed., p. 1883.
L. 1813, ch. 60, § 3; R. S., 8th ed., p. 1884.
L. 1890, ch. 66, R. S., 8th ed., supp. p. 3290.
L. 1844, ch. 158, § 1; R. S., 8th ed., p. 1896.

Religious corporations are excepted from § 5 of general corporation law, as to filing and recording certificates of incorporation.

Statutory construction law, § 15, specifies the officers authorized to take acknowledgments.

Code of Civil Procedure, § 3304, prescribes the clerk's fees for filing.

Remedy for refusal to file a certificate is by mandamus, and if such remedy is sought against the secretary of state, application must be made to the general term (appellate division) of the supreme court. Code of civil procedure, § 605. People ex rel. v. Rice, 128 N. Y. 121; People ex rel. v. Rice, 129 N. Y. 461; People ex rel. v. Rice, 138 N. Y. 614 Section 605 is amended by L. 1895, ch. 946, taking effect Jan. 1, 1896, so as to permit of application for mandamus of state officers to special term.

A certificate of incorporation of a religious corporation was recorded in the register's office instead of the office of the county clerk, as required by the statute. Held, that the substantial requirements of the statute being complied with, the error was not fatal. Matter of Arden (Surrogate's Ct., N. Y.), 20 St. Rep. 865; following Trustees v. Bly, 73 N. Y. 325.]

§ 4. **Property of unincorporated society transferred by its incorporation.**—All the temporalities and property of an unincorporated church, or of any unincorporated religious society, body, association or congregation, shall, on the incorporation thereof, become the temporalities and property of such corporation, whether such temporalities or property be given, granted or devised directly to such unincorporated church, society, body, association or congregation, or to any other person for the use or benefit thereof.

[L. 1813, ch. 60, § 4; R. S., 8th ed., 1885.
L. 1863, ch. 45, § 1, sub. 2; R. S., 8th ed., 1889.
L. 1871, ch. 12, § 1, sub. 2; R. S. 8th ed., 1889.

Without change of substance as to incorporated churches. New as to other religious corporations.

Legal title to corporate property.—The legal title to the corporate property vests in the corporate body, and not in the trustees. People v. Fulton, 11 N. Y. 94; Robertson v. Bullions, 11 N. Y. 243; Gram v. The Prussia, etc., Society, 36 N. Y. 161; People v. Mayor, 63 N. Y. 291; Wyatt v. Benson, 23 Barb. 327; Burrell v. Associate Reform Church, 44 Barb. 282; Bowen v. Irish Presbyterian Church, 6 Bos. 245; Dutch Church in Garden St. v. Mott, 7 Paige, 77. (For decisions in reference to mortgage and sale, see note to § 11.)

Acquisition of property.—Under general corporation law, §§ 11 and 12 religious corporations may acquire property by grant, gift, purchase, devise or bequest, for the purposes of the corporation, not exceeding in value $3,000,000, or the annual income from which does not exceed $500,000. In view of these sections, all provisions limiting the amount of property which a religious corporation can acquire or hold have been omitted. In the acquisition of property by devise or bequest religious corporations are limited by the provisions of L. 1860, ch. 369, providing that no person having a husband, wife, child or parent shall devise or bequeath to any religious, etc., corporation more than one-half his estate, after payment of his debts. (See act of 1860, with notes, ante.)

Diversion of corporate property.—The early decisions in this state did not recognize the denominational character of a religious corporation, and, except in cases of an express trust (see Field v. Field, 9 Wend. 394; Miller v. Gable, 2 Den. 492; Peo. v. Steele, 2 Barb. 397), uniformly held that the statute did not recognize the devotion of the corporate property to the support of a perpetual and unchangeable system of religious faith and doctrine, and that a majority of the corporators, without respect to their religious tenets, had the entire control of the revenues and property of the corporation. Gram v. The Prussian, etc., German Society, 36 N. Y. 161; Robertson v. Bullion, 11 N. Y. 243; Petty v. Tooker, 21 N. Y. 267; Watkins v. Wilcox, 4 Hun, 220; affim'd in 66 N. Y. 654.

But since L. 1875, ch. 79 and L. 1876, ch. 176 (substantially re-enacted in § 5), which provide that trustees of a religious corporation must administer its temporalities according to the discipline, rules and usages of the denomination to which the church members belong, the idea that corporations formed under the act of 1813 have no denominational character is no longer tenable, and a court of equity may be invoked to restrain a diversion or attempted diversion of the corporate property from its denominational uses, whether made by the congregation or the trustees. First Reformed Church v. Bowden (Gen. T.), 14 Abb. N. C. 356; S. C. (Sp. T.) 10 Abb. N. C. 1; Isham v. Fullager (Sp. T.), 14 Abb. N. C. 363; Isham v. Trustees of First Presbyterian Church, etc., 63 How. Pr. 465; People ex rel. Peck v. Conley, 42 Hun, 98.

Where a diversion is attempted, the members who dissent from the use of the church property for the denominational purposes for which it was secured, must be regarded as abandoning their former rights and

privileges, and the members who adhere to the faith of the denomination to which their society is attached, may continue in the use and enjoyment of the church property. Isham v. Trustees of First Pres. Ch., 63 How. Pr. 465.

Exemption of property.—For provisions in relation to the taxation and exemption of corporate property, see laws following general corporation law, ante.

Religious corporation can not divide property.—A legislative enactment is necessary for a religious corporation to divide its real estate and vest a portion in a part of its congregation. Reformed Church v. Schoolcraft, 65 N. Y. 134.

The property of a religious society can not be distributed among the individual members by the trustees, or the court. Wheaton v. Gates, 18 N. Y. 395.

Subscriptions.—A subscription to pay a certain sum towards the erection of a church edifice, and a further yearly sum towards the support of the minister, is binding, although the society was not legally incorporated until some time afterwards. Reformed Protestant Dutch Church v. Brown (Ct. of App., 1861), 24 How. Pr. 76.

But where a future incorporation is not contemplated, and the subscription is to be payable to a treasurer appointed by the subscribers, the subscription is not enforceable by a church corporation, created after the subscription. Presbyterian Society v. Beach, 8 Hun, 644.

A subscription for paying the mortgage debt, "in consideration of one dollar to each of them paid," it being shown that the dollar was in fact not paid, is nonenforcable, the mutual agreements of the subscribers being no consideration. Pres. Ch. in Albany v. Cooper, 112 N. Y. 517; affirming 45 Hun, 453.

Where a subscription is made toward erecting a church edifice on condition that the aggregate subscriptions should not be less than a certain sum, and there is no evidence that the subscriber requested the church corporation to build a new edifice, or that it promised it would, and that there was any endeavor to obtain subscribers by the subscriber's wish or direction, the subscription is void, being merely an executor's gift supported by no consideration. Thirty-third St. Baptist Church v. Cornell, 117 N. Y. 601.

Uses and trusts.—A grant to individuals for use of an unincorporated church is valid, and the estate vests in the church upon its incorporation. Reformed Dutch Ch. v. Veeder, 4 Wend. 494; Church of Redemption v. Grace Church, 68 N. Y. 570; Trustees, etc., v. Bly, 73 N. Y. 323; Voorhees v. Pres. Ch., etc., 17 Barb. 103; Baptist Ch in Hartford v. Witherell, 3 Paige, 296.

While the statute of Elizabeth relative to charitable uses was never in force in New York (Reformed Ch. in Garden St. v. Mott, 7 Paige, 77), a religious corporation may hold property upon trust for any specific

use within its corporate purposes and objects. Tucker v. Rector, etc., 3 Sand. 242; Williams v. Williams, 8 N. Y. 525.

Trustees can not take a trust for the use of the members of the church as distinguished from the members of the corporation, or for a portion of the corporators to the exclusion of the others. Robertson v. Bullions, 11 N. Y. 243; Gram v. The Prussia, etc., German Soc., 36 N. Y. 161.

It was held in Robertson v. Bullions, 11 N. Y. 243, that trustees can not receive a trust limited to the support of a particular faith or a particular class of doctrines. This decision was before the denominational character of the church was recognized by the statute. It would seem that since ch. 79 of L. 1875 (re-enacted in § 5), prohibiting the trustees from diverting the property from the denomination to which the church belongs, a different rule would prevail. (See decisions (ante.) in relation to diversion.)

Where a conveyance in trust for religious purposes is made in general terms, it can not be inferred from the grantor that it was intended to limit the use to the support of the particular doctrine in which he believed. Robertson v. Bullions, 11 N. Y. 243.

Where real estate is conveyed to trustees in trust for the use of a church or congregation, as a place of worship, which church or congregation is afterwards incorporated, the court after a great lapse of time, will presume a conveyance from the original trustees, or their heirs, to the corporation. Reformed Ch. in Garden St. v. Mott, 7 Paige, 77.

Prior to their incorporation, trustees of a religious society may hold property for the society as a beneficiary. Goddard v. Pomeroy, 36 Barb. 546.

Unincorporated religious societies have no power to take by devise. White v. Howard, 46 N. Y. 144.

Where a trust does not appear in a deed, it may be shown by parol. Church of Redemption v. Grace Church, 68 N. Y. 570.

A trust created for the use of a particular denomination or for a particular purpose can not be diverted. Petty v. Tooker, 21 N. Y. 267; Krusgern v. Lutheran Churches, etc., 1 Sand. ch. 439; Muller v. Gable, 2 Den. 492; Field v. Field, 9 Wend. 394; People v. Steele, 2 Barb. 397. (See decisions in reference to diversion, ante.)

It was held in Burrel v. Associate Reformed Church, 44 Barb. 282, that if the trust deed contains no conditions, the uniting of the society with another denomination will not amount to a diversion; but since L. 1875, ch. 79 (re-enacted in § 5), it would seem that a different rule prevails. (See decisions as to diversion, ante.)

So also in Watkins v. Wilcox, 66 N. Y. 654, it was held that the act of 1813 did not require trustees to hold the temporalities for the benefit

of believers in any particular faith. But see decisions relating to diversion, ante.

In Woodworth v. Payne (1878), 74 N. Y. 196, a conveyance was made to trustees of a church "for church purposes," with reservation that if the seats in any church on the premises should be "rented or sold" the premises should revert. Held, that a sale of the premises to an individual, with the same reservation in the deed, was not a diversion.

An absolute conveyance of land to a religious corporation creates no trust beyond the duty imposed by law upon the corporation of using its property for the purposes contemplated in its creation. A corporation may, with judicial consent, sell and convey a good title. Matter of First Presbyterian Society of Buffalo, 106 N. Y. 241.

Rights and liabilities of pew owners.— A pew owner has only a limited and usufructuary interest in the pew, which entitles him to the use of the pew during divine service. He has no interest in the church edifice as such. Freligh v. Platt, 5 Cow. 494; Baptist Church of Hartford v. Witherell, 3 Paige, 296; Wheaton v. Gates, 18 N. Y. 395; Matter of Reformed Church in Saugerties, 16 Barb. 237; Voorhees v. Presbyterian Church of Amsterdam, 8 Barb. 135; S. C. 17 Barb. 103; Cooper v. First Pres. Ch., etc., 32 Barb. 222; The Society, etc., of the Puritans, 3 Daly, 1; White v. Trustees, etc., 3 Lans. 477.

The pew owner has no claim for compensation when the church is taken down from necessity, or arising from the condition of the building or other imperative exigencies. Went v. Methodist Protestant Church, 80 Hun, 266.

If overruling consideration existed rendering it expedient to sell the church edifice, the interest of the pewholders would be destroyed. Wheaton v. Yates, 18 N. Y. 395.

If a church edifice becomes useless by dilapidation, or destroyed by fire or casualty, or has to be rebuilt, the right of the pew holder is gone. Voorhees v. Presbyterian Church of Amsterdam, 17 Barb. 103; Abernethy v. The Society, etc., of the Puritans, 3 Daly, 1; White v. Trustees, etc., 3 Lans. 477; Wheaton v. Gates, 18 N. Y. 395.

The trustees may alter the internal arrangement of the church, and if in the exercise of such right the church is destroyed from necessity, a pew holder must be content with a just and adequate compensation. Cooper v. First Presbyterian Church, etc., 32 Barb. 222.

The trustees may remodel the church edifice and remove the pews, and for this the pew holder can not maintain an action; but if the pew is destroyed for convenience only, or maliciously, the owner has a remedy. Voorhees v. Presbyterian Church in Amsterdam, 8 Barb. 135.

If a church is sold, the trustees should tender to a pew holder a pew in the new edifice corresponding in location to the old pew, and if they fail to do so he can be indemnified. Mayer v. The Temple Beth El (N. Y. Com. Pleas, Sp. T.), 52 St. Rep. 638.

The trustees have the management of the temporal affairs of the church, and may regulate and order the renting of pews, or the removal and changing thereof. Solomon v. Congregation, etc. (Com. Pleas, Sp. T.), 49 How. Pr. 263.

The trustees may by regulations in respect to renting and occupation of pews exclude persons holding obnoxious opinions from attendance upon worship. Petty v. Tooker, 21 N. Y. 267.

The trustees of a free church may determine where a person shall sit, and after requesting a person to leave the seat he is occupying, may forcibly remove him. Sheldon v. Vail, 28 Hun, 354.

Trustees have not the power to make an absolute sale of a pew in perpetuity, without any reservation of rent. Voorhees v. Presbyterian Church, etc., 8 Barb. 135.

Interest in a pew, created by a lease in perpetuity, is an interest in realty, and the lessee takes the property as realty with all its incidents. St. Paul's Church v. Ford, 34 Barb. 16.

The contract for a pew beyond one year is void unless reduced to writing, as the interest is one in real estate. First Baptist Church of Ithaca v. Bigelow, 16 Wend. 28.

An order of the court for the sale of a pew is not necessary. Freligh v. Platt, 5 Cow. 494.

An action may be maintained by a pew owner against one who disturbs him in the possession. Shaw v. Beveridge, 3 Hill, 26; Baptist Church in Hartford v. Witherell, 3 Paige, 296.

Persons renting a pew hold as tenants in common. St. Paul's Church v. Ford, 34 Barb. 16.

A wife has dower right in a pew owned by her husband. Bronson v. St. Peter's Church, 7 N. Y. Leg. Obs. 361.

A contract of renting must be shown, before action against pew owner for rent can be maintained. Trustees v. Quackenbush, 10 John. 217; St. Paul's Ch. v. Ford, 34 Barb. 16.

Pews are exempt from taxation, see p. 52, and from levy and sale on execution. Code Civ. Pro. 1390.]

§ 5. General powers and duties of trustees of religious corporations.—The trustees of every religious corporation shall have the custody and control of all the temporalities and property, real or personal, belonging to the corporation and of the revenues therefrom, and shall administer the same in accordance with the discipline, rules and usages of the corporation and of the ecclesiastical governing body, if any, to which the corporation is subject, and with the provisions of law relating thereto, for the support and maintenance of the corporation, or, providing the members of the corporation at a meeting thereof shall so authorize, of some religious, charitable, benevolent or educational object conducted by said corpora-

tion or in connection with it, or with the denomination, if any with which it is connected; and they shall not use such property or revenues for any other purpose or divert the same from such uses. By-laws may be adopted or amended, by a two-thirds vote of the qualified voters present and voting at the meeting for incorporation or at any subsequent meeting, after written notice, embodying such by-laws or amendment, has been openly given at a previous meeting, and also in the notices of the meeting at which such proposed by-laws or amendment is to be acted upon. By-laws thus adopted or amended shall control the action of the trustees. But this section does not give to the trustees of an incorporated church, any control over the calling, settlement, dismissal or removal of its minister, or the fixing of his salary; or any power to fix or change the times, nature or order of the public or social worship of such church.

[Am'd, ch. 621 of 1897.]

[L. 1813, ch. 60, § 4; R. S., 8th ed., 1883.
L. 1822, ch. 187, § 1; R. S., 8th ed., 1892.
L. 1835, ch. 90, § 8; R. S., 8th ed., 1893.
L. 1875, ch. 79, § 4; R. S., 8th ed., 1904.
L. 1876, ch. 176, § 1; R. S., 8th ed., 1909.
L. 1876, ch. 329, § 6; R. S., 8th ed., 1911.

This section, the next section, and §§ 11, 12, 29 and 30 of the general corporations law, cover by general language, applicable to all religious corporations, the specific provisions of existing law, as to powers of trustees of incorporated churches, as follows:

1. To recover, hold and enjoy all property, etc., belonging to the church;

2. To purchase and lease other property for the use of the church;

3. To repair and alter churches and erect others if necessary;

4. To erect schoolhouses, parsonages and other buildings;

5. To make rules and orders for managing the temporal affairs and to dispose of moneys;

6. To regulate and order renting of pews.

7. Perquisites for cemetery grounds;

8. To appoint clerk and treasurer and require treasurer to give bonds;

9. Prescribe duties of clerk and treasurer.

The prohibitions against diversions are as broad and comprehensive as any of the provisions of the present law.

The last clause is new.

Relation of trustees to corporation.—Although by the language of several acts repealed by this chapter, the trustees were constituted the corporation, the courts held that the corporation consisted of the qualified voters (People's Bank v. St. Anthony's Ch., 109 N. Y. 512, and cases cited under § 2), and, this chapter expressly provides that as to future incorporations the members shall constitute the corporation. See §§ 31, 83, post.

The vestry or trustees do not sustain to the corporation the relation of a private trustee to a cestui que trust. They are the trustees only in the sense in which the directors of a civil corporation are such. Robertson v. Bullions, 11 N Y. 243. They are its managing agents and may act for it as fully as the directors or agents of other corporate bodies. Matter of St. Ann's Church (Sp. T.), 14 Abb. Pr. 424.

Powers of trust es to act.—All powers directly conferred by statute, or impliedly granted, may be exercised by the directors. Beveridge v. N. Y. E. R. Co., 112 N. Y. 22.

But trustees can only bind the corporation when acting as a board duly assembled. The individual action of a majority or the whole number will not bind the corporation. People's Bank v. St. Anthony's R. Cath. Ch., 109 N. Y. 512; Landers v. The Frank St. M. E. Church, 114 N. Y. 626; Hart v. Trustees, etc., 17 Jones & Spencer, 523.

The corporation is only bound by the action of a majority of the whole number of trustees, required by the statute. Moore v. Rector (Sp. T.), 4 Abb. N. C. 51. A director can not vote by proxy. Craig Med. Co. v. Merchants' Bank, 59 Hun, 561.

Whenever, under the provisions of any of the corporate laws, a corporation is authorized to take any action by the agreement or action of its directors, managers or trustees, such agreement or action may be taken by such directors, regularly convened as a board, and acting by a majority of a quorum, except when otherwise expressly required by law or the by-laws of the corporation and any such agreement shall be executed in behalf of the corporation by such officers as shall be designated by the board of directors, managers or trustees. (Gen. Corp. L., § 39, ante.)

Confirmation of action of trustees.—If the action of the trustees is sanctioned by a majority of members present at a meeting regularly held, it will not be necessary to show that they were a majority of all the members. Madison Ave. Bap. Ch. v. Baptist Ch. in Oliver St. (Sp. T.), 32 How. Pr. 335; reversed on different grounds, 46 N. Y. 131.

facto trustees.—A contract made with trustees de facto in possession, by one having no knowledge of the illegality of their election binds the corporation. Ebaugh v. German Reformed Church, 3 E. D. Smith, 60.

Trustees de facto of a religious society whether such society be incorporated or not may maintain an action against a trespasser for an injury to the meeting house of the society, but they can not maintain an action against persons who are in the actual possession of the land and the house of worship thereon, under a claim that they are trustees to and represent an incorporated society which owns the same. Green v. Cady, 9 Wend. 414.

Persons claiming to be the trustees of a religious society and who have not been regularly admitted to the possession of the church can not maintain an action to restrain other persons claiming to be its

trustees and in possession of the church from acting as such trustees. The North Baptist Church v. Parker, 36 Barb. 171.

Powers after having been ousted.—A committee of vestrymen who have been appointed to perform certain duties relating to the corporation, have no power, after having been ousted from office, to mandamus an officer of the corporation to perform an act in recognition of an act done by them. Presbyterian Church v. Blackhurst, 60 Hun, 63.

Liability of trustees.—Not subject to liability for debts and assessments on church property. People v. The Mayor, 63 N. Y. 291. But they are liable when they divert the investment of trust funds from such securities as are authorized by law. Matter of Congregational Church, 6 Abb. N. C. 398.

When authority can be questioned.—Not in a collateral proceeding. Trustees, etc., v. Hills, 6 Cowen, 23; M. E. Church v. Pickett, 19 N. Y. 282; Jackson v. Nestles, 3 John. 115.

Title to office.—Title to the office can only be questioned by a proceeding in the nature of a quo warranto. Parish of Belleport v. Tooker, 29 Barb. 256; People v. Lacoste, 37 N. Y. 192; People v. Farrington, (Sp. T.), 22 How. Pr. 294; Hartt v. Harvey (Sp. T.), 32 Barb. 55; Reis v. Rohde, 34 Hun, 161.

The question as to title to the office can not be submitted to arbitration. Wyatt v. Benson, 23 Barb. 327.

Nor can it be tried in an action of ejectment. Concord Society, etc., v. Stanton, 38 Hun, 1; Parish of Belleport v. Tooker, 29 Barb. 256; Jackson v. Nestles, 3 John. 115; North Bap. Ch. v. Parker, 36 Barb. 171.

Possession of property.—The trustees have a right to the possession of the church property, even as against a majority of the corporators. First M. E. Church of Attica v. Falkins, 3 T. & C. 279; People v. Runkle, 8 John. 464.

As to powers of trustees in relation to mortgages and sale of real property, see § 11, post, and cases cited.

As to the diversion of the corporate property, see note of § 4, ante.

As to powers of trustees in relation to pew holders, see cases cited under that head in notes to § 4, ante.

Actions by and against trustees.—An action or proceeding instituted by the trustees of a religious corporation must be in the corporate name. Bundy v. Birdsall, 29 Barb. 31; People v. Fulton, 11 N. Y. 94.

A minority of the trustees who are loyal to the church or denomination may enjoin the majority who are attempting a diversion of its temporalities. First Reformed Pres. Ch. v. Bowden, 14 Abb. N. C. 357.

Trustees of a religious corporation who cease to be members of the church, cease to be trustees of such church, and may be restrained from further action as such. Id.

An injunction will not lie to restrain the regular action of the trustees. Solomon v. Congregation, 49 How. Pr. 263.

But they may be restrained from diverting the temporalities of the church, from the denomination to which the church belongs. See note to § 4. And even prior to 1875, ch. 79, they could be restrained from diverting property held subject to particular trusts. Kniskern v. Lutheran Ch., etc, 1 Sand. ch. 439, and cases cited under § 4, "Uses and Trusts."

Ministers.—Section 5 provides that the control of the temporalities shall not give to the trustees the power of calling, settling or removing a minister, or of fixing his salary.

The vestry of an Episcopal church, subject to the canons of the church, may elect a rector, and fix his salary. See § 32, post.

The trustees of a Greek church are given power to fix and change the salary of the rector. See § 61, post.

The salary of a minister of a Reformed Presbyterian church can only be fixed by the congregation. See § 65, post.

The trustees of churches generally are prohibited from settling or removing a minister or fixing his salary, without the consent of a corporate meeting. See § 90, post.

Where no provision is made by the statute authorizing the trustees or the corporators to settle or remove a minister or to fix his salary. the matter will be subject to the rules and canons of the denomination to which the church belongs.

Our law requires no ceremony to establish the relation of pastor and congregation. "Induction" or "institution" in the sense of the English ecclesiastical law are unknown to our law, and will not be required unless it is the positive rule of the ecclesiastical body to which the pastor belongs. Youngs v. Ransom, 31 Barb. 49.

The churchwardens and vestrymen of a Prot. Epis. Ch. have the exclusive power of calling and inducting a minister. "A call" consists in a power to fix the salary as well as to make a contract with the rector and deliver him possession of the church. Humbert v. St. Stephen's Ch., 1 Ed. Ch. 308.

A minister of a Protestant Episcopal church can only be removed, without his consent, by the bishop of the diocese. Youngs v. Ransom, 31 Barb. 49.

The court will not inquire whether a bishop is acting discreetly in removing a minister, but merely whether the bishop has the power to act. Walker v. Wainwright, 16 Barb. 486.

The only ground upon which a civil court can question the action of the bishop in removing a minister is that it may affect his civil rights. Walker v. Wainwright, 16 Barb. 486.

The action of the church judicatory in deposing the minister of the church is not subject to review in the civil courts. Isham v. Fullager (Sp. T.), 14 Abb. N. C. 363.

The trustees of a M. E. church may be mandamused to receive a preacher appointed by the bishop. People v. Steele, 2 Barb. 397; People ex rel. Peck v. Conley, 42 Hun, 98.

A "call" from a Presbyterian congregation to a minister drawn in the words prescribed by the discipline of the church, and signed by three elders and trustees, is to be regarded as the act of the congregation. Paddock v. Brown, 6 Hill, 530.

The ministers of an incorporated church can not be called and settled by the church and communicants only, but the assent of the trustees is necessary, also of the electors if he is to be paid from their contributions. Lawyer v. Cipperly, 7 Paige, 281.

Trustees are authorized to pay the salary of a minister regularly called. Miller v. Gable, 2 Denio, 492.

The salary of a minister can only be fixed in the manner prescribed by the statute. Pendleton v. Waterloo Baptist Ch., 49 Hun, 596.

Where the salary of a minister is not fixed as prescribed by the statute, no contract obligation is imposed upon the church. Landers v. Frank St. M. E. Church, 97 N. Y. 119; overruling 15 Hun, 340.

The trustees should withhold their assent to the employment of a minister, though selected by the majority, if it would destroy the harmony of the church. 5 Sand. Ch. 666.

If after the surrender of a lease, the pastor of the former lessee enters the church and insists on preaching, the lessor is justified in having him removed by force from the church, using such force only as is necessary, if after notice he refuses to leave the same. Conway v. Carpenter, 80 Hun, 429.

The trustees of the congregation have no right to forcibly eject a minister from a parsonage of which he has possession, although he has been suspended by the conference from his regular duties as a minister, and he may recover damages for the assault. Brister v. Burt, 120 N. Y. 427.

Mandamus will lie to put a minister in possession of a pulpit to which he has been assigned by the bishop, and from which he has been excluded by the trustees on the grounds of incompetency. People v. Trustees First M. E. Ch., 3 N. Y. St. Rep. 372.

The decision of the highest tribunal of the church is conclusive as to the right of a minister to preach to a particular congregation, and where subscription has been made to the support of his ministry, a decision of a subordinate tribunal will not relieve the subscriber from his liability to pay his annual subscription. Dieffendorf v. Reformed Church, 20 John. 12.

A subscription to pay the salary of a minister so long as he shall administer the gospel and the subscriber shall live within four miles of the meeting-house, is valid. Religious Soc. v. Stone, 7 John. 112.

The relation of master and servant does not exist between a minister regularly installed and the congregation or the trustees. Brister v. Burr, 120 N. Y. 427.

The court will not interfere to prevent the trustees of religious societies from employing a clergyman whose religious tenets are at variance with those of the original founders of the society. Baptist Church v. Witherell, 3 Paige, 296, but this decision was before L. 1875, ch. 79, giving to churches a denominational character.]

§ 6. **Acquisition of property by religious corporations for branch institutions; establishment, maintenance and management thereof.**— Any religious corporation may acquire property for associate houses, church buildings, chapels, mission-houses, school-houses for Sunday or parochial schools, or dispensaries of medicine for the poor, or property for the residence of its ministers, teachers or employes, or property for a home for the aged. The persons attending public worship in any such associate house, mission-house, church building, or chapel connected therewith shall not, by reason thereof have any rights as members of the parent corporation. The persons statedly worshipping in any such house, mission-house, church building or chapel may, with the consent of the trustees of such corporation, become separately incorporated as a church, and the parent corporation may, in pursuance of the provisions of law regulating the disposition of real property by religious corporations, rent or convey to the new corporation, with or without consideration, any such associate house, church building, chapel, mission-house, school-house or dispensary and the lot connected therewith, subject to such regulations as the trustees of the parent corporation may make. Any religious corporation shall have power to establish, maintain and manage by its trustees or other officers as a part of its religious purpose a home for the aged, and may take and hold by conveyance, donation, bequest or devise real and personal property for such purpose, and may purchase and may erect suitable buildings therefor. Any such corporation may take and hold in grant, donation, bequest or devise of real or personal property heretofore or hereafter made upon trust, apply the same, or the income thereof, under the direction of its trustees or other officers, for the purpose of establishing, maintaining and managing such a home and for the erection, preservation, repair or extension of any building or buildings for such purpose.

Amended by chap. 525, L. 1896. In effect May 11, 1896.

[L. 1850, ch. 122, § 2; R. S., 8th ed., 1897.
L. 1867, ch. 657, §§ 1-3; R. S., 8th ed., 1899.

Without change of substance except that the provision of the act of 1867, requiring seats to be forever free, is omitted. If the branch institution becomes a corporation, it must proceed as provided in this chapter for the incorporation of the parent society.

Chapter 122 of L. 1850, applied to churches incorporated under L. 1801, ch. 79. Church of the Redemption v. Grace Church, 68 N. Y. 570.

If the associate society incorporates without the consent of the parent society, real property purchased by the parent society for the use of the branch society, even though paid for in part by the funds of the associate society vests exclusively in the parent society. Id.

The mere authority of the parent society to incorporation does not

operate to convey the real property of the parent society occupied by the associate society. Alexander Pres. Church v. Fifth Ave. Pres. Church, 64 N. Y. 274.

It seems that the consent of the parent society should be in writing. Ch. of Redemption v. Grace Church, 68 N. Y. 570.

A parent society can not retain personal property purchased by the members of the associate society in view of separate incorporation, after such incorporation is perfected, even though without the consent of the parent society. Id.

A subscription for the erection of Sunday school building of a church and paid to the treasurer of the church is recoverable by the parent corporation, even though the Sunday school had a separate organization, and part of the subscribers were members of the separate organization and directed defendant not to pay over the funds. The Rector v. Crawford, 43 N. Y. 476; followed in First Baptist of Franklindale v. Pryor, 23 Hun, 271.

A religious society cannot divide its real estate and vest a portion of it in a part of its congregation organized as an associate body, but a resolution of the governing body of the parent society, purporting to transfer a portion of its real estate to the associate congregation may lay the foundation of an adverse possession, upon the incorporation of the associate congregation. Reformed Church v. Schoolcraft, 65 N. Y. 134.]

§ 7. **Acquisition of property by religious corporations for cemetery purposes; management thereof.**—A religious corporation may take and hold, by purchase, grant, gift or devise, real property for the purposes of a cemetery; or such lot or lots in any cemetery connected with it, as may be conveyed or devised to it, with or without provisions limiting interments therein to particular persons or classes of persons; and may take and hold any property granted, given, devised or bequeathed to it in trust to apply the same or the income or proceeds thereof, under the direction of the trustees of the corporation, for the improvement or embellishment of such cemetery or any lot therein, including the erection, repair, preservation or removal of tombs, monuments, gravestones, fences, railings or other erections, or the planting or cultivation of trees, shrubs, plants, or flowers in or around any such cemetery or cemetery lots.

A religious corporation may erect upon any property held by it for cemetery purposes, a suitable building for religious services for the burial of the dead, or for the use of the keepers or other persons employed in connection therewith, and may sell

and convey lots in such cemetery for burial purposes, subject to such conditions and restrictions as may be imposed by the instrument by which the same was acquired, or by the rules and regulations adopted by such corporation. Every such conveyance of a lot or plat for burial purposes, signed, sealed and acknowledged in the same manner as a deed to be recorded, may be recorded in like manner and with like effect as a deed of real property.

[L. 1842, ch. 153, § 1; R. S., 8th ed., 1894.
L. 1842, ch. 215, § 1; R. S., 8th ed., 1895.
L. 1850, ch. 122, § 3; R. S., 8th ed., 1898.
L. 1881, ch. 501, § 1; R. S., 8th ed., 1912.
L. 1884, ch. 198, §§ 1-3; R. S., 8th ed., 1896.

The only material change is allowing deeds of cemetery lots, when sealed and acknowledged, to be recorded in county clerk's office.]

§ 8. Removal of human remains from one cemetery of a religious corporation to another cemetery owned by it.—A religious corporation, notwithstanding the restrictions contained in any conveyance or devise to it, may remove the human remains buried in a cemetery owned by it, to another cemetery owned by it, if the trustees thereof so determine, and if either three-fourths of the members of such corporation, qualified to vote at its corporate meetings, sign and acknowledge and cause to be recorded in the office of the clerk of the county in which such cemetery or a part thereof is situated, a written consent thereto, or if three-fourths of the members of such corporation qualified to vote, and present and voting, at a corporate meeting of such corporation, specially called for that purpose, shall approve thereof. But if such corporation be a church, previous notice of the object of such meeting shall be published for at least four successive weeks in a newspaper of the town, village or city in which the cemetery from which the removal is proposed, is situated, or if no newspaper is published therein, then in a newspaper designated by the county judge of such county. Such removal shall be made in an appropriate manner and in accordance with such directions as to the manner thereof as may be given by the board of health of the town, village or city in which the cemetery from which the removal is made, is situ-

ated. All tombstones, monuments or other erections at or upon any grave from which any remains are removed, shall be properly replaced or raised at the grave where the remains are reinterred.

[See form, No. 23.

L. 1842, ch. 215, § 2; R. S., 8th ed., 1895.
L. 1878, ch. 349, §§ 1-4; R. S., 8th ed., 1895.
Without material change in substance.]

§ 9. Acquisition of property by two or more religious corporations for a common parsonage.—Two or more religious corporations may acquire such real property as may be necessary for use as a parsonage, and the right, title and interest of each corporation therein shall be in proportion to its contribution to the cost of such property. The trustees of each corporation shall, from time to time, appoint one of their number to be a trustee of such common parsonage property, to hold office during the pleasure of the appointing trustees or until his successor be appointed. The trustees so appointed shall have the care and management of such property and may make such improvements thereupon as they deem necessary, and determine the proportion of the expense of the maintenance thereof which each corporation shall bear. If at any time either of such corporations acquires or desires to acquire for its own exclusive use as a parsonage other real property, it may, in pursuance of the provisions of law, relating to the disposition of real property by religious corporations, sell and convey its interest in such common parsonage property to any one or more of the other corporations having an interest therein.

[L. 1875, ch. 408, §§ 1-9; R. S., 8th ed., 1906.

By present law, trustees of parsonage property are made an independent corporation, taking legal title to the property. This section, as to future cases, makes the contributing corporations tenants in common of the parsonage property, and the trustees appointed by the contributing corporations managing agents thereof. The provision allowing a corporation to withdraw and sell to the others is new. The method of selecting trustees is materially changed and much simplified.]

§ 10. Correction and confirmation of conveyances to religious corporations.—If, in a conveyance of real property, or in any

instrument intended to operate as such, heretofore or hereafter made to a religious corporation, its corporate name is not stated or is not correctly stated, but such conveyance or instrument indicates the intention of the grantor therein to convey such property to such corporation, and such corporation has entered into possession and occupation of such property, any officer of the corporation authorized so to do by its trustees may record in the office where such conveyance or instrument is recorded a statement, signed and acknowledged by him or proved, setting forth the date of such conveyance or instrument, the date of record and the number and page of the book of record thereof, the name of the grantor, a description of the property conveyed or intended to be conveyed, the name of the grantee as expressed in such conveyance or instrument, the correct name of such corporation, the fact of authorization by the trustees of the corporation, to make and record such statement, and that the grantor in such conveyance or instrument intended thereby to convey such property to such corporation as the said officer verily believes, with the reason for such belief. Such statement so signed and acknowledged or proved shall be recorded with the records of deeds in such office, and indexed as a deed from the grantee as named in such instrument or in such conveyance to such corporation. The register or clerk, as the case may be, shall note the recording of such statement on the margin of the record of such conveyance, and for his services shall be entitled to receive the fees allowed for recording deeds. Such statement so recorded shall be presumptive evidence that such matters therein stated are true, and that such corporation was the grantee in the original instrument or conveyance. All conveyances heretofore made, or by any instrument intended to be made, to a religious corporation of real property appropriated to the use of such corporation, or entitled to be so appropriated, are hereby confirmed and declared valid and effectual, notwithstanding any defect in the form of the conveyance or the description of the grantee therein, but this section shall not affect any suit or proceeding pending on the thirty-first day of January, eighteen hundred and seventy-one.

Amended by chap. 336, L. 1896. In effect April 21, 1896.

L. 1871, ch. 12, § 1, sub. 5; R. S., 8th. ed., 1891.
L. 1888, ch. 459, § 1; R. S., 8th ed., 1913.

The first portion of the section as to the correction of conveyances, enlarges materially the cases in which the correction can be made. By the present law, the name of the grantee in the original conveyance must contain the principal words of the true corporate name, whereas this section of the revision allows the correction to be made if the conveyance is intended to be made to the corporation and no part of the corporate name appears therein, as well as when the corporate name is incorrectly stated. The contents of the statement are materially amplified chiefly by the requirement that it shall set forth the reasons for believing that the corporation was intended to be the grantee, but the effect of the statement is limited. The act of 1888, now provides that from the filing of the statement the true corporate name shall be deemed to have been expressed in the original conveyance. This section of the revision makes the statement presumptive evidence of the truth of its contents.

The last paragraph of this section as to the confirmation of conveyances, extends to all churches the provisions of the acts of 1863 and 1871 which are now applicable only to Roman Catholic churches and Greek churches.]

§ 11. Sale, mortgage and lease of real property of religious corporations.—A religious corporation shall not sell, or mortgage any of its real property without applying for and obtaining leave of the court therefor pursuant to the provisions of the code of civil procedure. The trustees of an incorporated Protestant Episcopal church shall not vote upon any resolution or proposition for the sale, mortgage or lease of its real property unless the rector of such church, if it then has a rector, shall be present, and shall not make application to the court for leave to sell or mortgage any of its real property without the consent of the bishop and standing committee of the diocese to which such church belongs; but in case the see be vacant, or the bishop be absent or unable to act, the consent of the standing committee with their certificate of the vacancy of the see or of the absence or disability of the bishop shall suffice. The trustees of an incorporated Roman Catholic church shall not make application to the court for leave to mortgage, lease or sell any of its real property without the consent of the archbishop or bishop of the diocese to which such church belongs or in case of their absence or inability to act, without the consent of the vicar-general or administrator of such diocese. The petition of the trustees of an incorporated Protestant Episcopal church or Roman Catholic church shall, in addition to the matters required by the code of civil pro-

cedure to be set forth therein, set forth that this section has also been complied with. But lots, plats or burial permits in a cemetery owned by a religious corporation may be sold without applying for or obtaining leave of the court. No cemetery lands of a religious corporation shall be mortgaged while used for cemetery purposes.

Amended by chap. 222 of 1901. In effect March 28, 1901.
Amended by chap. 208 of 1902. In effect March 22, 1902.
[See form, No. 5.

L. 1813, ch. 60, § 1, sub. 15, § 11; R. S., 8th ed., 1882, 1838.
L. 1890, ch. 424; R. S., 8th ed. (supp.), 3291.
L. 1842, ch. 215, § 1; R. S., 8th ed., 1895.
L. 1879, ch. 310, § 1; R. S., 8th ed., 1947.

The special provision as to Roman Catholic churches is new, and is inserted at the request of the authorities of that church. The act of 1813 as originally enacted and also as amended by the act of 1890 provided that the corporation shall make the application. This section of the revision, therefore, makes no change in that respect, and is in harmony with § 3391, sub. 5 of the Civil Code, as added by L. 1890, ch. 95, which act also provides in detail the procedure for obtaining leave of the court.

The last clause of § 11 of the act of 1813, prohibiting the sale of "gospel lots," granted by the state, is omitted, as practically obsolete.

There are no other material changes of substance.

Power of alienation.—Under the English common law religious corporations had the power to alienate their property without restriction, but in the reign of Elizabeth several statutes were enacted, restraining the alienation of church property. These statutes became part of our common law, and, therefore, without statutory authority religious corporations have no power to sell their real property. M. Ave. Baptist Ch. v. Baptist Church in Olive St., 46 N. Y. 131; Bogardus v. Trinity Church, 4 Paige, 178; De Ruyter v. St. Peter's Church, 3 Barb. 119; S. C. 3 N. Y. 238.

Power to mortgage.—It has been held that a religious corporation may make a mortgage without leave of the court. Manning v. Moscow, etc., Society, 27 Barb. 52; South Bap. Soc. v. Clapp, 18 Barb. 35; that a mortgage was not a sale within the meaning of the statutes of Elizabeth, and the decisions holding that statutory authority to sell was necessary. Compare Battell v. Torrey, 65 N. Y. 294, and Riggs v. Parsell, 66 N. Y. 193.

Prior to 1890, the supreme court was accustomed to grant to religious corporations authority to mortgage real property, on the theory that the mortgage was a conditional sale. In 1890, ch. 424, the power was expressly granted to the court, and has been re-enacted in § 11. Matter of Church of the Messiah (Sp. T.), 25 Abb. N. C. 354, and note.

While there may be doubt as to the necessity of the authority of the court, it will be much safer to secure it.

Where application is made.—The "court" referred to in this section is either the supreme court of the district or the county court of the county in which the real property or some part thereof is situated. (Code Civil Procedure, §§ 340 and 3391ff, in pursuance of which the proceedings are to be conducted.) See sections of code following annotations to this section.

Who may make application.—There is a dictum of the court in the case of Wyatt v. Benson, 23 Barb. 327, that an application for the sale, mortgage or lease of the real property can only be made by the authority of the corporation, in which the legal title is vested; but the later authorities hold that a majority of the trustees as the managing agents of the temporalities of the corporation can make the application, without a vote of a majority of the corporators. Matter of St. Ann's Church (Sp. T.), 14 Abb. Pr. 424; The Madison Ave. Bap. Ch. v. Bap. Ch. in Oliver St., 46 N. Y. 131; In re St. George's M. E. Church, 21 Wk. D. 81.

Application to the court is not necessary for the sale of a church edifice which has been removed from its foundations and placed on rollers. The edifice then becomes personal property. Beach v. Allen, 7 Hun, 441.

The trustees of a religious society have the power to remove their house of worship from one lot to another or from one village to another without application to the court. Matter of the Second Baptist Society, 20 How. Pr. (Sp. T.) 324.

A deed to the vendor of a right of way over lands purchased by the corporation is not a sale, requiring order of the court. Protestant Reformed, etc., Church v. Bogardus, 5 Hun, 304.

Sale of pews.—A church corporation can not sell a pew absolutely without leave of the court. Matter of Reformed Church in Saugerties, 16 Barb. 237.

What constitutes sale.—There must be a valuable consideration inuring to the corporation as such. If the only consideration is a benefit to the individual incorporators, the court has no power to order the sale. Mad. Ave. Bap. Church v. Bap. Ch. in Oliver St., 46 N. Y. 131; Wheaton v. Gates, 18 N. Y. 395.

Conditional sale.—A condition in a deed of premises that if the seats of any church erected on the premises shall be "rented or sold" the premises shall revert to the grantors or her heirs, is not violated by a sale of the premises to an individual under order of the court, by a deed containing the same condition. Woodworth v. Payne, 74 N. Y. 196.

Order to direct disposition of proceeds.—Upon the sale of real property of a religious corporation by leave of the court, the property can not be distributed among the corporators, but must be applied as directed by the court. Matter of the Reformed Church in Saugerties, 16 Barb. 237.

An order of the court granting leave to mortgage, should direct the application of the proceeds. In re Ch. of the Messiah, 12 N. Y. Supp. 489.

Effect of order on executory contracts.— A religious corporation has power to make an executory contract for the sale of real estate, subject to the action of the supreme court, and if such approval be obtained the contract will be binding without formal ratification. Bowen v. The Irish Presbyterian Congregation, etc., 6 Bos. 245.

An executory contract for sale of land by a religious corporation, made before consent of court to the conveyance, is valid, and may be enforced after consent, even though it is not provided that the contract is made subject to obtaining consent. Such condition will be implied. Congregation Beth Elolim v. Central Presbyterian Ch. (City Ct. Brooklyn), 10 Abb. Pr. (N. S.), 484.

Effect of order as to validity of deed.— An order of the court authorizing the sale of the real property of religious corporations is not conclusive as to the validity of the deed or the right to convey. Wardens, etc., of St. James' v. Rector, etc., 45 Barb. 356.

Arbitration.— A religious corporation not having the power to sell its real estate without the consent of the supreme court can not submit the question of sale to any other person. Wyatt v. Benson, 23 Brab. 327.

Assignment — Trustees of a religious corporation may make an assignment of the corporate property for the benefit of corporate creditors. De Ruyter v. St. Peter's Church, 3 N. Y. 238.

Sale to another corporation.—A sale may be ordered of the property of one religious corporation to another religious corporation, upon consideration of the grantor assuming the incumbrances thereon and the floating debts of the grantor. Lynch v. Pfeiffer, 38 Hun, 601.

Action to set aside sale.— A corporator can not in his own name bring an action to set aside a sale, where the only objection is that the proceedings before the court were irregular. In such an action the corporation must be made by a party. Wakins v. Wilcox, 66 N. Y. 654.]

CODE OF CIVIL PROCEDURE.

Relative to the Sale of Corporate Real Property.

TITLE II.

Proceedings for the Sale of Corporate Real Property.

Section 3390. When proceedings pursuant to the provisions of this title to be taken.

3391. Proceedings to be instituted by presentation of petition; what to contain.

3392. Hearing of application. Notice; appointment of referee.

3393. Order; when application for, may be opposed.

3394. Insolvent corporation or association; notice to creditors.

3395. Services of notices; how made.

3396. Practice in cases not provided for.

3397. When act to take effect.

§ 3390. Whenever any corporation or joint-stock association is required by law to make application to the court for leave to mortgage, lease or sell its real estate, the proceeding therefor shall be had pursuant to the provisions of this title.

§ 3391. The proceeding shall be instituted by the presentation to the supreme court of the district, or the county court of the county where the real property, or some part of it, is situated, by the corporation or association, applicant, of a petition setting forth the following facts:

1. The name of the corporation or association, and of its directors, trustees or managers, and of its principal officers, and their places of residence.

2. The business of the corporation or association, or the object or purpose of its incorporation or formation, and a reference to the statute under which it was incorporated or formed.

3. A description of the real property to be sold, mortgaged or leased, by metes and bounds, with reasonable certainty.

4. That the interests of the corporation or association will be promoted by the sale, mortgage or lease, of the real property specified, and a concise statement of the reasons therefor.

5. That such sale, mortgage or lease, has been authorized, by a vote of at least two-thirds of the directors, trustees or managers of the corporation or association, at a meeting thereof, duly called and held, and a copy of the resolution granting such authority.

6. The market value of the remaining real property of the corporation or association, and the cash value of its personal assets, and the total amount of its debt and liabilities, and how secured, if at all.

7. The application proposed to be made of the moneys realized from such sale, mortgage or lease.

8. Where the consent of the shareholders, stockholders or members of the corporation or association, is required by law to be first obtained, a statement that such consent has been given, and a copy of the consent or a certified transcript of the record of the meeting at which it was given, shall be annexed to the petition.

9. A demand for leave to mortgage, lease or sell the real estate described.

The petition shall be verified in the same manner as a verified pleading in an action in a court of record.

[See form, No. 26.]

§ 3392. Upon the presentation of the petition, the court may immediately proceed to hear the application, or it may, in its discretion, direct that notice of the application shall be given to any person interested therein, as a member, stockholder, officer or creditor of the corporation or association or otherwise, in which case the application shall be heard at the time and place specified in such notice, and the court may in any case appoint a referee to take the proofs and report the same to the court, with his opinion thereon.

§ 3393. Upon the hearing of the application, if it shall appear to the satisfaction of the court that the interest of the corporation or association will be promoted thereby, an order may be granted authorizing it to sell, mortgage or lease the real property described in the petition, or any part thereof, for such sum, and upon such terms as the court may prescribe, and directing what disposition shall be made of the proceeds of such sale, mortgage or lease. Any person, whose interests may be affected by the proceedings, may appear upon the hearing and show cause why the application should not be granted.

[See form, No. 26.]

§ 3394. If the corporation or association is insolvent, or its property and assets are insufficient to fully liquidate its debts and liabilities, the application shall not be granted, unless all the creditors of the corporation have been served with a notice of the time and place at which the application will be heard.

§ 3395. Service of notice, provided for in this title, may be made either personally, or, in case of absence, by leaving the same at the place of residence of the person to be served, with some person of mature age and discretion, at least eight days before the hearing of the application, or by mailing the same, duly enveloped and addressed and postage paid, at least sixteen days before such hearing.

§ 3396. In all applications made under this title, where the mode or manner of conducting any or all of the proceedings thereon and not expressly provided for, the court before whom such application may be pending, shall have the power to make all necessary orders and give the proper directions to carry into effect the object and intent of this title, or of any act authorizing the sale of the corporate real property, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

§ 3397. This title shall take effect May first, eighteen hundred and ninety, and shall not affect any proceeding previously commenced.

§ 12. **Consolidation of incorporated churches.**— Two or more incorporated churches may enter into an agreement, under their respective corporate seals, for the consolidation of such corporations, setting forth the name of the proposed new corporation, the denomination, if any, to which it is to belong, and if the churches of such denomination have more than one method of choosing trustees, by which of such methods the trustees are to be chosen, the number of such trustees, the names of the persons to be the first trustees of the new corporation, and the date of its first annual corporate meeting. Such agreement shall not be valid unless approved by the governing body of the denomination, if any, to which each church belongs, having jurisdiction over such church. Each corporation shall thereupon make a separate petition to the supreme court for an order consolidating the corporation, setting forth the denomination, if any, to which the church belongs, that the consent of the governing body to the consolidation, if any, of that denomination having jurisdiction over such church has been obtained, the agreement therefor, and a statement of all the property and liabilities and the amount and sources of the annual income of such petitioning organization. In its discretion the court may direct that notice of the hearing of such petition be given to the parties interested therein in such manner and for such time as it may prescribe. After hearing all the parties interested, present and desiring to be heard, the court may make an order for the consolidation of the corporations on the terms of such agreement and such other terms and conditions as it may prescribe, specifying the name of such new corporation and the first trustees thereof, and the method by which their successors shall be chosen and the date of its first annual corporate meeting. When such order is made and duly entered, the persons constituting such corporations shall become an incorporated church by, and said petitioning churches shall become consolidated under, the name designated in the order, and the trustees therein named shall be the first trustees thereof, and the future trustees thereof shall be chosen by the method therein designated, and all the estate, rights, powers and property of whatsoever nature, belonging to either corporation shall, without further act or deed be vested in and transferred to the new corporation as effectually as they were vested in or belonged to the former corporations; and the said new corporation shall be liable for all the debts and liabilities of the former corporations in the same manner and as effectually as if said debts or liabilities had been contracted or incurred by the new corporation. A certified copy of such order shall be recorded in

the book for recording certificates of incorporation in each county clerk's office in which the certificate of incorporation of each consolidating church was recorded; or if no such certificate was so recorded, then in the clerk's office of the county in which the principal place of worship or principal office of the new corporation is, or is intended to be, situated.

Amended by chap. 56, L. 1896, In effect February 29, 1896.

[See form, No. 26.

L. 1874, ch. 37; R. S., 8th ed., 1902.
L. 1875, ch. 209; R. S., 8th ed., 1904.
L. 1876, ch. 176, §§ 3-4; R. S., 8th ed., 1909.

The only material change is in allowing the new church to be of a different denomination from either of the old ones. The provision that the governing body of the denomination to which each church belongs must consent to the consolidation is sufficient guard against any evil resulting from the change.

Chapter 176 of the Laws of 1876, only authorizes the consolidation of corporations having a denominational character, and does not authorize a consolidation of the free church of an undenominational character with a denominational church. Stokes v. Phelps Mission, 47 Hun, 570. This would probably be the practical effect of § 12, as the consent of the governing bodies of the denominations to which the consolidating churches belong is required; although the first sentence in referring to new corporation as "the denomination, if any" to which it is to belong might seem to imply the consolidation of an undenominational church with a denominational one.

The statutes authorizing consolidation of existing religious corporations, chapter 209 of the Laws of 1875, and chapter 176 of the Laws of 1876, were designed to enable existing religious corporations organized in good faith to consolidate when it is apparent that the interests of each can be advanced by the union. Matter of M. E. Society v. Perry, 51 Hun, 104.

A religious corporation can not be organized for the sole purpose of consolidating it with another, with the design of acquiring the property of such church corporation and applying it to the maintenance of a church with a different polity and a different faith. Id.

When the majority of the trustees of one corporation are also the trustees of another, such boards of trustees can not contract for the consolidation of the corporations. Id.

The court is vested with a discretionary power as to whether consolidation is desirable. Id.

An injunction will not lie to restrain the Protestant Episcopal churches from effecting a consolidation in accordance with an agreement made between them. Maclaury v. Hart, 121 N. Y. 636; reversing S. C. (Court of Common Pleas).]

§ 13. Judicial investigation of amount of property of religious corporations.—The supreme court at a special term, held in the judicial district in which the principal place of worship or of holding corporate meetings of a religious corporation is situated, may require such corporation to make and file an inventory of its property, verified by its trustees or a majority of them, on the written application of the attorney-general, stating that, from his knowledge, or on information and belief, the value of the property held by such corporation exceeds the amount authorized by law. On presentation of such application, the court shall order that a notice of at least eight days, together with a copy of the application, be served upon the trustees of the corporation, requiring them to show cause at a time and place therein specified why they should not make and file such inventory and account. If, on the hearing of such application, no good cause is shown to the contrary, the court may make an order requiring such inventory or account to be filed, and may also proceed to take and state the amount of property held by the corporation, and may appoint a referee for that purpose; and when such account is taken and stated, after hearing all the parties appearing on the application, the court may enter an order determining the amount of property so held by the corporation and its annual income, from which order an appeal may be taken by any party aggrieved as from a judgment of the supreme court in an action tried therein before a court without a jury. No corporation shall be required to make and file more than one inventory and account in any one year, or to make a second account and inventory while proceedings are pending for the statement of an account under this section.

[See form, No. 27.

L. 1813, ch. 60, §§ 10, 15; R. S., 8th ed., 1887-8.
L. 1814, ch. 1, § 6; R. S., 8th ed., 1891.
L. 1842, ch. 153, §§ 1-2; R. S., 8th ed., 1894.
L. 1850, ch. 122, § 1; R. S., 8th ed., 1897.
L. 1863, ch. 45, § 1, sub. 3; R. S., 8th ed., 1889.
L. 1871, ch. 12, § 1, sub. 3; R. S., 8th ed., 1891.

Pursuant to this section of the revision, the annual inventory is only required to be filed, where sworn statement is made on knowledge, or information and belief, that the property of the corporation exceeds the

amount authorized by law. The present law which is practically obsolete requires triennial filing of inventory, with provisions that failure to file shall be ground for dissolution.

A court of equity has no visitorial jurisdiction over religious corporations formed under the third section of the act of 1813. Robertson v. Bullions, 11 N. Y. 543; Kniskern v. Lutheran Churches, 1 Sand. Ch. 439.]

§ 14. Corporations with governing authority over churches. An unincorporated diocesan convention, presbytery, classis, synod, annual conference, or other ecclesiastical governing body having jurisdiction over several churches, may at a stated meeting thereof, determine to become incorporated by a designated name, and may by a plurality vote, elect not less than three nor more than nine persons to be the first trustees of such corporation. The presiding officer and clerk of such governing body shall execute and acknowledge a certificate stating that such proceedings were duly taken as herein provided, the name by which such corporation is to be known, and the names of such first trustees. On filing such certificate the members of such governing body and their successors shall be a corporation by the name stated in the certificate, and the persons named as trustees therein shall be the first trustees thereof.

The trustees of every incorporated governing body and their successors shall hold their offices during the pleasure of such body, which may remove them and fill vacancies in accordance with its rules and regulations. Such corporation may take, administer and dispose of property for the benefit of such governing body, or of any parish, congregation, society, church, mission, religious, benevolent, charitable or educational institution existing or acting under it.

[See form, No. 28.

L. 1875, ch. 381, §§ 1, 2, 4; R. S., 8th ed., 1905.
L. 1876, ch. 110, §§ 1, 2, 4; R. S., 8th ed., 1908.
L. 1886, ch. 209, § 1; R. S., 8th ed., 1909.

Without change of substance, except that the members of the governing body instead of the trustees only are constituted the corporation.

Section three of this chapter provides for filing and recording the certificate of incorporation. See **Perry v. Board of Missions, etc., of Albany, 142 N. Y. 99.**]

§ 15. **Property of extinct churches.**— Such incorporated governing body may decide that a church, parish or society in connection with it or over which it has ecclesiastical jurisdiction, has become extinct, if it has failed for two consecutive years next prior thereto to maintain religious services according to the discipline, customs and usages of such governing body, or has less than thirteen resident attending members paying annual pew rent, or making annual contribution toward its support, and may take possession of the temporalities and property belonging to such church, parish or religious society, and manage; or may, in pursuance of the provisions of law relating to the disposition of real property by religious corporations, sell or dispose of the same and apply the proceeds thereof to any of the purposes to which the property of such governing religious body is devoted, and it shall not divert such property to any other object. The American Congregational Union shall be deemed the governing religious body of every extinct or disbanded Congregational church within the meaning of this section. The New York Eastern Christian Benevolent and Missionary society, shall be deemed the governing religious body of any extinct or disbanded church of the Christian denomination situated within the bounds of the New York Eastern Christian Conference; and the New York Christian Association of any other church of the Christian denomination, and any other incorporated conference shall be deemed the governing religious body of any such church situated within its bounds. By Christian denominations is meant only the denomination specially termed "Christian" in which the bible is declared to be the only rule of faith, Christian their only name, and Christian character their only test of fellowship, and in which no form of baptism is made a test of Christian character.

Amended by chap. 336, L 1896. In effect April 21, 1896

§ 15. **Property of extinct churches.**—Such incorporated governing body may decide that a church, parish or society in connection with it or over which it has ecclesiastical jurisdiction, has become extinct, if it has failed for two consecutive years next prior thereto, to maintain religious services according to the discipline, customs and usages of such governing body, or has had less than thirteen resident attending members paying annual pew rent, or making annual contribution toward its support, and may take possession of the temporalities and property belonging to such church, parish or religious society, and manage; or may, in pursuance of the provisions of law relating to the disposition of real property by religious corporations, sell or dispose of the same and apply the proceeds thereof to any of the purposes to which the property of such governing religious body is devoted, and it shall not divert such property to any other object. The New York Eastern Christian Benevolent and Missionary society shall be deemed the governing religious body of any extinct or disbanded church of the Christian denomination situated within the bounds of the New York Eastern Christian Conference; and the New York Christian Association, of any other church of the Christian denomination, and any other incorporated conference shall be deemed the governing religious body of any church situated within its bounds. By Christian denomination is meant only the denomination specially termed "Christian," in which the Bible is declared to be the only rule of faith, Christian their only name, and Christian character their only test of fellowship, and in which no form of baptism is made a test of Christian character.

[Am'd, ch. 238 of 1897. In effect April 14, 1897.]

[L. 1871, ch. 381, § 3; R. S., 8th ed., 1906.
L. 1876, ch. 110, § 3; R. S., 8th ed., 1908.
L. 1885, ch. 431, § 1; R. S., 8th ed., 1917.
L. 1887, ch. 100, §§ 1-4; R. S., 8th ed., 1918.
Several minor changes for sake of uniformity are made, but nothing substantial.]

§ 16. **Corporations for organizing and maintaining mission churches and Sunday schools.**—Ten or more members of two or more incorporated churches may become a corporation for the purpose of organizing and maintaining mission churches and Sunday schools, and of acquiring property therefor, by executing, a certificate stating the name of such corporation, the city in which its principal office or church or school is or is intended to be located; the number of trustees to manage its affairs, which shall be three, six or nine, and the names of the trustees for the first year of its existence, which certificate shall be acknowledged or proved and filed as hereinbefore provided. Whenever a mission church established by such corporation becomes self-sustaining, such mission church may become incorporated and shall be governed under the provisions of this act for the incorporation and government of a church of the religious denomination to which such mission church belongs, and thereon such parent corporation may convey to such incorporated church the property connected therewith.

Amended by chap. 336, L. 1896. In effect April 21, 1896.
[See form, No. 29.

This section is new. See § 6. Section 3 of this chapter provides for the place of filing certificates. For provisions as to who may take acknowledgments, see § 15 of statutory construction law. As to qualification of incorporators, the naming of the corporation, and generally as to certificates of incorporation, see general corporation law, §§ 3-9.]

§ 17. **Corporations for acquiring parsonages for presiding elders and camp meeting grounds.**—The presiding elder and a majority of the district stewards residing within a presiding

elder's district, erected by an annual conference of the Methodist Episcopal denomination, may become incorporated for the purposes of acquiring, maintaining and improving real property to be used either as a parsonage for the presiding elder of such district or as a camp ground for camp meeting purposes, or for both of such objects by executing, acknowledging and filing a certificate stating the name and object of the corporation to be formed, the name of such annual conference, and of such presiding elder's district, the names, residences and official relations to such district of the signers thereof, the number of trustees of such corporation, which shall be three or some multiple of three not more than twenty-one, the names of such trustees, designating one-third to hold office for three years, one-third to hold office for two years, and one-third to hold office for one year. On filing such certificate the presiding elder and all the stewards of such district by virtue of their respective offices, shall be a corporation by the name and for the purposes therein stated, and the persons therein named shall be the first trustees thereof. The presiding elder and stewards of any other adjoining presiding elder's district, in this or any other state, may become members of any such corporation, at the time of its formation or any time thereafter, with the consent of such corporation, which has for its sole object, or for one of its objects, the acquiring, maintaining and improving of real property as a camp ground for camp meeting purposes, if such presiding elder and a majority of such stewards sign, acknowledge and cause to be filed in the office of the secretary of state, a certificate stating such object, the name of such district, and the names, residences and official relations to such district of the signers thereof, with the consent of the original corporation indorsed thereon.

If such a corporation, which has for its sole object or one of its objects, the acquisition and maintenance of camp grounds for camp meeting purposes, is composed of the presiding elders and the district stewards of more than one presiding elder's district, the number of such trustees shall be apportioned equally, as near as may be, between the different districts, and

the presiding elder and district stewards of such district shall elect the number of trustees so apportioned to such district, and the remainder, if any, over an equal division of the trustees, shall be elected by all the members of the corporation.

A person holding property in trust for the purposes of a parsonage for the presiding elder of a district, and his successors in office, or for camp meeting purposes, for the Methodist Episcopal denomination, may convey the same to a corporation formed for the purpose of acquiring such property within the district in which the property is situated. Meetings held under the direction of such a corporation upon camp grounds owned by it shall be deemed religious meetings, within the provisions of law relating to disturbances of religious meetings, and the trustees of such a corporation shall have the powers of peace officers with relation thereto. Whenever such a corporation or any camp-ground association owns land bordering upon any navigable waters, to be used for camp meeting purposes only, such corporation or association may regulate or prohibit the landing of persons or vessels at the wharves, piers or shores upon such grounds during the holding of religious services thereon.

If the trustees of any such corporation heretofore incorporated have not been classified, so that the terms of office of one-third of their number expire each year, the trustees of such corporation shall be elected annually by the members thereof; but if the trustees of any such corporation have been so classified, one-third of the total number of trustees shall be elected annually to hold office for three years. Such a corporation heretofore incorporated may, by a majority vote, at an annual meeting, or at a special meeting duly called therefor, determine to change the number of its trustees to three, or some multiple thereof, not more than twenty-one. On such determination a majority of the trustees shall sign, acknowledge and file in the offices where the original certificate of such corporation is filed, a supplemental certificate, specifying such reduction or increase; and thereon the number of trustees, shall be the number stated in such certificate. If the number of trustees is increased, the

corporation shall elect, at its next annual meeting, a sufficient number of trustees to hold office for one, two and three years, respectively, so that the terms of office of one-third of the whole number of trustees of such corporation shall expire at each annual meeting thereafter. If the number is reduced, the corporation shall thereafter elect at its annual meetings one-third of the number of trustees specified in such supplemental certificate, but the trustees in office when such certificate is filed shall continue in office until the expiration of their terms, respectively.

[See form, No. 30.

L. 1867, ch. 265; R. S., 8th ed., 1999.
L. 1874, ch. 26; R. S., 8th ed., 1920.
L. 1894, ch. 72.
Simplified without material change of substance.]

§ 18. **Application of this chapter to churches created by special laws.**—If a church be incorporated by special law, it and its trustees shall have, in addition to the powers conferred on it by such law, all the powers and privileges conferred on incorporated churches and the trustees thereof respectively by the provisions of this article, and also all the powers and privileges conferred by this chapter on churches of the same denomination or of the like character, and on the trustees thereof respectively.

[L. 1871, ch. 776, § 1; R. S., 8th ed., 1900.
Without material change of substance.]

§ 19. **Application of this chapter to churches incorporated prior to January first, eighteen hundred and twenty-eight.**—Any provision of this chapter shall not be deemed to apply to any church incorporated under any general or special law, prior to January first, eighteen hundred and twenty-eight, if such provision is inconsistent with or in derogation of any of the rights and privileges of such corporation as they existed under the law by or pursuant to which such corporation was formed, unless such corporation subsequent to such date, shall have lawfully reincorporated under a law enacted since the first day of January, eighteen hundred and twenty-eight, or unless the trustees of such

corporation shall, by resolution, determine that the provisions of this chapter applying to churches of the same denomination and to the trustees thereof shall apply to such church, and unless such resolution shall be submitted to the next ensuing annual meeting of such church, and ratified by a majority of the votes of the qualified voters present and voting thereon. Notice of the adoption of such resolution and of the proposed submission thereof for ratification, shall be given with the notice of such annual meeting, and in addition thereto, mailed to each member of such church corporation at his last known post-office address, at least two weeks prior to such annual meeting, and published once a week for two successive weeks immediately preceding such meeting in a newspaper, if any, published in the city, village or town in which the principal place of worship of such corporation is located and otherwise in a newspaper published in an adjoining town. If such resolution is so ratified, the trustees of such church shall cause a certificate setting forth a copy of such resolution, its adoption by the board of trustees and its due ratification by the members of such corporation, to be filed in the office of the clerk of the county in which the principal place of worship of such corporation is located. Such county clerk shall cause such certificate to be recorded in the book in which certificates of incorporation of religious corporations are recorded in pursuance of law.

Added by chap. 336, L. 1896. In effect April 21, 1896.

§ 20. **Calling of a minister, etc.**—No provision of this act authorizes the calling, settlement, dismissal or removal of a minister, or the fixing or changing of his salary, and a meeting of a church corporation for any such purpose shall be called, held, moderated, conducted, governed and notice of such meeting given and person to preside thereat ascertained and the qualification of voters thereat determined, not as required by any provision of this act but only according to the aforesaid laws and regulations, practice, discipline, rules and usages of the religious denomination or ecclesiastical governing body, if any, with which the church corporation is connected.

Added by chap. 720 of 1899.

§ 21. **Worship.**—No provision of this act authorizes the fixing or changing of the times, nature or order of public or social or other worship of any church, in any other manner or by any other authority than in the manner and by the authority provided in the laws, regulations, practice, discipline, rules and usages of the religious denomination or ecclesiastical governing body, if any, with which the church corporation is connected.

Added by chap. 720 of 1899.

§ 22. The preceding sections numbers twenty and twenty-one are not applicable to a Baptist church, a Congregational church or to any other religious corporation having a congregational form of government.

Added by chap. 720 of 1899.

§ 23. **Corporations for acquiring camp meeting grounds for the Reformed Methodist denomination.**—The visiting elder of a visiting elder's district, erected by an annual conference of the Reformed Methodist denomination, and three members or more in good and regular standing of three or more churches of such denomination, may become incorporated for the purposes of acquiring, maintaining and improving real property, to be used as a camp ground for camp meeting purposes, by executing, acknowledging and filing a certificate stating the name and object of the corporation to be formed, the name of such annual conference, and of such visiting elder's district, the names, residences and particular church membership of the signers thereof, the number of trustees of such corporation, which shall be three or some multiple of three, not more than twenty-one, the names of such trustees, designating one-third to hold office for three years, one-third to hold office for two years, and one third to hold office for one year. On filing such certificate, the visiting elder and the trustees named therein, and their successors in office, shall be a corporation by the name and for the purposes therein stated. A person holding property in trust for camp meeting purposes for the Reformed Methodist denomination, may convey the same to a corporation formed for the purpose of acquiring such property within the visiting elder's district where the property is situated. Meetings held under the direction of such a corporation upon camp grounds owned by it, shall be deemed religious meetings within the religious law, relating to the disturbance of religious meetings, and the trus-

tees of such a corporation shall have the power of peace officers with relation thereto. Whenever such a corporation, or any camp ground association of the Reformed Methodist denomination, owns land bordering upon any navigable waters to be used for camp meeting purposes only, such corporation or association may regulate or prohibit the landing of persons or vessels at the wharves, piers or shores upon such grounds during the holding of religious services thereon.

Added by chap. 314 of 1903. In effect May 5, 1903.

ARTICLE II.

Special Provisions for the Incorporation and Government of Protestant Episcopal Parishes or Churches

Section 30. The meeting for incorporation.
31. The certificates of incorporation.
32. Corporate trustees; vestry; powers and duties thereof.
33. Annual elections.
34. Changing the number of vestrymen of parishes hereafter incorporated.
35. Changing date of annual elections, number and terms of office of vestrymen and terms of churchwardens of parishes heretofore incorporated.
36. Changing the qualifications of voters and the qualifications of wardens and vestrymen.

§ 30. **The meeting for incorporation.**—Notice of a meeting for the purpose of incorporating an unincorporated Protestant Epis-

copal parish or congregation, and of electing the first church wardens and vestrymen thereof, shall specify the object, time and place of such meeting, and shall be made public for at least two weeks prior to such meeting, either by open reading of such notice in time of divine service, at the usual place of worship of such parish or congregation, or by posting the same conspicuously on the outer door of such place of worship. Only men of full age who have been regular attendants at the worship of such parish or congregation and contributors to the support thereof for one year next prior to such meeting, or since the establishment of such parish or congregation, shall be qualified to vote at such meeting. The presence of at least six persons qualified to vote thereat shall be necessary to constitute a quorum of such meeting. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon, a quorum being present. The officiating minister, or if there be none, or he shall be necessarily absent, any other person qualified to vote at the meeting, who is called to the chair, shall preside thereat. Such presiding officer shall receive the votes, be the judge of the qualifications of voters, and declare the result of the votes cast at such meeting. The polls of the meeting shall remain open for one hour or longer in the discretion of the presiding officer, or if required by a vote of a majority of the voters present. The meeting shall decide whether such unincorporated parish or congregation shall become incorporated. If such decision be in favor of incorporation, such meeting shall decide upon the name of the proposed corporation; what secular day of the week beginning with the first Sunday in Advent, shall be the date of the regular annual election; whether the vestrymen thereof shall be three, six or nine; and shall elect by ballot from the persons qualified to be voters thereat, who have been bap-

tized, one-third of the number of vestrymen so decided upon to hold office until the first annual election to be held thereafter, one-third of such number, to hold office until one year after such annual election, and one-third of such number, to hold office until two years after such annual election; and shall elect from such qualified voters who are communicants in the Protestant Episcopal Church, two persons to be church wardens thereof, one to hold office until such annual election; and one to hold office until one year after such annual election.

Am'd by chap. 358 of 1898

[See form, No. 11.

L. 1813, ch. 60, § 1, subs. 1–6; R. S., 8th ed., 1881.

The only material changes of substance are:

1. A notice of the meeting is to be read or posted instead of being read and posted as required by the present law. The present law requires the notice to be read by the rector or officiating minister. This section does not specify the persons who shall read it.

2. The qualifications of voters is materially changed.

3. The date to be specified for annual corporate meeting is changed from Easter week to the week beginning with the first Sunday in Advent.

4. The number of vestrymen is changed from "not less than four nor more than eight annually elected," to "either three, six or nine," of whom one-third shall be elected annually.

There can be but one corporation for the same religious society. The faction which is most vigilant and gives the requisite notice for a meeting at both meeting places of the society, if the society holds religious services in two, may be lawfully incorporated, and become vested with the property of the society. Trustees v. Bly, 73 N. Y. 323.

At the first meeting for incorporation two things must concur to qualify a voter, viz.: Regular attendance and contribution to the support of the church for one year prior to the meeting. Persons baptized in the church or received by confirmation or communion are not qualified (as formerly) unless regular attendance and contribution also concur.]

§ 31. The certificate of incorporation.—If such meeting shall decide in favor of incorporation and comply with the next preceding section, the presiding officer of such meeting and at least two other

persons present and voting thereat, shall execute and acknowledge a certificate of incorporation setting forth:

1. The fact of the calling and holding of such meeting;

2. The name of the corporation as decided upon thereat;

3. The county, and the town, city or village, in which its principal place of worship is, or is intended to be located;

4. The day of the week commencing with the first Sunday in Advent upon which the annual election shall be held.

5. The number of vestrymen decided upon at such meeting;

6. The names of the vestrymen elected at such meeting and the term of office of each;

7. The names of the churchwardens elected at such meeting and the term of office of each.

On filing such certificate in the office of the clerk of the county so specified therein the churchwardens and vestrymen so elected and their successors in office, together with the rector, when there is one, shall form a vestry and shall be the trustees of such church or congregation; and they and their successors shall thereupon, by virtue of this act, be a body corporate by the name or title expressed in such certificate, and shall have power, from time to time, to adopt by-laws for its governance.* Such corporation shall be an incorporated church, and may be termed also an incorporated parish.

Am'd by chap. 358 of 1898.

[See form, No. 12.

L. 1813, ch. 60, § 1, subs. 7, 8; R. S., 8th ed., 1882.

The certificate contains more details than are required by present law. The qualified voters and the members are expressly constituted the corporation, instead of the trustees as provided by L. 1813, ch. 60, § 1, sub. 8; but the present law has been interpreted to make the members the corporation, Robertson v. Bullions, 11 N. Y. 243; Cram v. Evan. Luth. Soc., 36 N. Y. 161, and cases cited under § 2.

If trustees are named, it will be considered a compliance with requirement that number be stated. Betts v. Betts (Sp. T.), 4 Abb. N. C. 317; but it is better to state number.

As to place of filing certificate, see § 3 and cases cited.

The general qualification of incorporators, the naming of the corporation and other general regulations as to certificates, are provided by

* So in original.

general corp. law, §§ 8-9. The persons before whom acknowledgments may be taken are specified in statutory construction law, § 15.

The certificate must contain the names of the trustees and the corporate name, but a defect in record can not be taken advantage of by a person who has contracted with the corporation. M. E. Union Ch. v. Pickett, 19 N. Y. 482.

A compliance with the statute will be presumed from long user under it. Saint's Ch. v. Lovett, 1 Hall's Superior Ct. Rep. 191.

A certified copy of the certificate is evidence equally with the original. Code Civ. Pro., § 933.

§ 32. Corporate trustees, vestry; powers and duties thereof. — No meeting of the vestry or trustees of any incorporated Protestant Episcopal parish or church shall be held unless either all the members thereof are present, or three days' notice thereof shall be given to each member thereof, by the rector in writing either personally or by mail, or, if there be no rector or he be incapable of acting, by one of the churchwardens; except that twenty-four hours' notice of the first meeting of the vestry or trustees after an annual election shall be sufficient, provided such meeting be held within three days after the election. To constitute a quorum of the vestry or board of trustees there must be present either:

1. The rector, at least one of the churchwardens and a majority of the vestrymen; or,

2. The rector, both churchwardens and one less than a majority of the vestrymen; or,

3. If the rector be absent from the diocese and shall have been so absent for over four calendar months, or if the meeting be called by the rector and he be absent therefrom, or be incapable of acting, one churchwarden and a majority of the vestrymen, or both churchwardens and one less than a majority of the vestrymen.

But if there be a rector of the parish, no measure shall be taken, in his absence, in any case, for effecting the sale or disposition of the real property of the corporation, nor for the sale or disposition of the capital or principal of the personal property of the corporation, nor shall any act be done which shall impair the rights of such rector.

The presiding officer of the vestry or trustees shall be the rector, or if there be none, or he be absent, the churchwarden who shall be called to the chair by a majority of the votes, if both the churchwardens be present; or the churchwarden present, if but one be present. At each meeting of the vestry or trustees each member thereof shall be entitled to one vote. The vestry shall have power to fill a vacancy occurring in the office of churchwarden or vestryman by death, resignation or otherwise than by expiration of term, until the next annual election at which, if such vacancy would continue thereafter, it shall be filled for the remainder of the unexpired term. The vestry may, subject to the canons of the Protestant Episcopal Church in the United States, and of the diocese in which the parish or church is situated, by a majority vote, elect a rector to fill a vacancy occurring in the rectorship of the parish, and may fix the salary or compensation of the rector.

[Am'd, ch. 358 of 1898.]

[L. 1813, ch. 60, § 1, subs. 8, 14-16.

The provision of sub. 8 making the trustees the corporation is omitted, the members of the congregation being made the corporation by § 31. See cases cited under § 31.

Subdivision 16 expressly gives to the presiding officer of the board a casting vote. Omitted from this section.

The statute requiring a majority of the vestrymen contemplates a majority of the legal members, and not merely of a less number actually in office. Moore v. Rector, etc., of St. Thomas (circuit), 4 Abb. N. C. 51.

Mandamus will lie to compel vestrymen to attend a duly called meeting of the vestry, where it appears that they willfully absented themselves. People ex rel. v. Winans (Sup. Ct. Chambers), 29 St. Rep. 651.

A rector of an incorporated church may be mandamused to join with the trustee in appointing a time for an election and fill vacancies in the office of church wardens, vestrymen and give notice thereof as required by law. People ex rel. Fleming v. Hart (Common Pleas), 11 N. Y. Supp. 673.

A committee of vestrymen who have been appointed to perform certain duties relating to the corporation, have no power, after having been ousted from office, to mandamus an officer of the corporation to perform an act sanctioning act done by them. Presbyterian Church v. Blackhurst, 60 Hun, 63.

For powers of trustees in relation to the property of the corporation, see §§ 4, 5 and 11, and notes.

For powers of trustees in relation to minister, see notes to § 5 under head of "Ministers."]

§ 33 **Annual elections of incorporated Protestant Episcopal parishes.**—The annual election of a Protestant Episcopal parish, hereafter incorporated, shall be held on the secular day in the week commencing with the first Sunday in Advent, designated in its certificate of incorporation. The annual election of an incorporated Protestant Episcopal parish or church heretofore incorporated shall be held on the day fixed for such annual election, by or in pursuance of law, or if no such date be so fixed, then on the Monday next after the first Sunday in Advent. Notice of such annual election shall be read by the rector of the parish, or if there be none, or he be absent, by the officiating minister or by a churchwarden thereof, on each of the two Sundays next preceding such election, in the time of divine service, or if, for any reason, the usual place of worship of the parish be not open for divine service, the notice shall be posted conspicuously on the outer door of the place of worship for two weeks next preceding the election. Such notice shall specify the place, day and hour of holding the election, the name and term of office of each churchwarden and vestryman whose term of office shall then expire, or whose office shall then be vacant for any cause, and the office for which each such officer is to be then elected. The meeting for such annual election, shall be held immediately after morning service. The presiding officer of such meeting shall be the rector thereof, if there be one, or if there be none, or he be absent, one of the churchwardens elected for the purpose by a majority of the duly qualified voters present, nor if no churchwarden be present, a vestryman elected in like manner. Such presiding officer shall be the judge of the qualifications of the voters; shall receive the votes cast; and shall declare the result of the votes cast at such election. The presiding officer of such meeting shall enter the proceedings of the meeting in the book of the

minutes of the vestry, sign his name thereto, and offer the same to as many qualified voters present as he shall think fit, to be also signed by them. Only men of full age belonging to the parish, who have been regular attendants at its worship and contributors to its support for at least twelve months prior to such election or since the establishment of such parish, shall be qualified voters at any such election. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon. The polls of the election shall continue open for one hour, and longer, in the discretion of the presiding officer, or, if required, by a vote of a majority of the qualified voters present and voting. The churchwardens and vestrymen shall be elected by ballot from persons qualified to vote at such election, and no person shall be eligible for election as churchwarden, unless he be also a communicant in the Protestant Episcopal church, nor be eligible for election as vestryman, unless he shall have been baptized. At each annual election of an incorporated Protestant Episcopal parish hereafter incorporated, one churchwarden shall be elected to hold office for two years; and one-third of the total number of the vestrymen of the parish shall be elected to hold office for three years. At each annual election of an incorporated Protestant Episcopal parish or church heretofore incorporated two churchwardens and the total number of its vestrymen shall be elected to hold office for one year thereafter, unless the terms of office of but one churchwarden or of but one-third of its vestrymen shall then expire, in which case one churchwarden shall be elected to hold office for two years, and one-third of the total number of its vestrymen shall be elected to hold office for three years. Each churchwarden and vestryman shall hold office after the expiration of his term until his successor shall be chosen.

Am'd by chap. 358 of 1898.

[See form, No. 13.

L. 1813, ch. 60, § 1, subs. 9–14; R. S., 8th ed., 1882.

Without material change as to churches heretofore incorporated. As to churches hereafter incorporated the date of annual election and the number and terms of office of churchwardens and vestrymen are materially changed.

Presiding officer.—A rector of an incorporated church may be mandamused to give notice of the annual election. McLaurey v. Hart (Sp. T.), 11 N. Y. Supp.

The rector of the Protestant Episcopal church is both presiding and returning officer and his certificate of election is presumptive evidence of the right of the party receiving it to hold the office and exercise its functions. The People v. Lacoste, 37 N. Y. 192.

A presiding officer prevented by violence from discharging his duties at a regular meeting may retire, with those who choose to follow him, and conduct the meeting elsewhere. Field v. Field, 9 Wend. 394.

What constitutes quorum.—To constitute a corporate meeting there need not be present a majority of the corporators; but where the corporators are indefinite, those assembled pursuant to regular call will constitute a quorum, and the acts of a majority will bind the corporation. Madison Ave. Baptist Church v. The Baptist Church of Oliver St., 32 How. Pr. 335; Field v. Field, 9 Wend. 394.

Voters.—Only members of the congregation who have been regular attendants on divine worship and contributors to the support of the church for twelve months are qualified. Baptism in the church or reception by confirmation or communion do not alone qualify, as heretofore provided by L. 1813, ch. 60, § 1, subs. 6 and 9.

A member's right to vote depends upon his connection with the particular society, and not with the denomination at large. Watkins v. Wilcox, 4 Hun, 220.

The members of the church have no greater rights as corporators than the members of the congregation who steadily attend divine worship with them. Baptist Church in Hartford v. Witherell, 3 Paige, 296.

Persons otherwise qualified do not lose their right to vote at elections by reason of having renounced the doctrine of ecclesiastical government of the church. Petty v. Tooker, 21 N. Y. 267.

A religious corporation may, under its rules, exclude a member from spiritual privileges, but can not deprive him of his statutory rights as an incorporator. People v. German Church, 53 N. Y. 103; reversing 6 Lans. 172; People v. Phillip, 1 Den. 388.

Stated attendance means the personal presence of the voter at the religious meetings of the society. The regular attendance of members of his family is not sufficient. Casual attendance and regular contributions to the support of the church will not constitute a person a voter. People et al. v. Tuthill, et al., 31 N. Y. 550.

Contribution and support must be according to the usages and customs of the church, which implies that contributions must be of a vital and substantial character. Id.

Contributions to the support of a charity connected with the church, or to a mission school, are not sufficient. Id.

A court of equity has no power to require qualifications in the electors of trustees, other than those prescribed by the statute. Robertson v. Bullions, 11 N. Y. 243.

A member can not vote by proxy at the meetings of a religious corporation. Gen. Corp. L., § 21.

The presiding officer may exact an oath from every person offering to vote. Gen. Corp. L., § 22.

Legality of election — The question of the legality of votes cast at a corporate election can not be determined by the inspectors (or presiding officer acting as such) after they have already made a certificate declaring certain persons elected. Hartt v. Harvey, 32 Barb. 55.

An election of the trustees is valid although the notice required by the statute was not given, if the election was fairly conducted, and there is no complaint of want of notice. The People v. Peck, 11 Wend. 604.

After the ballots are received, the right of the inspectors to inquire into their legality ceases. They must return the vote as cast. People v. White, 11 Abb. Pr. 168; Hartt v. Harvey, 32 Barb. 55.

A certificate of election is presumptive evidence of election and can only be overcome by proof that the person holding it received less than a majority of the votes cast, unless the certificate shows upon its face that the person holding it was not legally elected. People v. Lacoste, 37 N. Y. 192; Hartt v. Harvey, 32 Barb. (Sp. T.) 55.

§ 34 Changing the number of vestrymen of Protestant Episcopal parishes hereinafter incorporated.—If the vestry of a Protestant Episcopal parish, hereinafter incorporated, shall, by resolution, recommend that the number of vestrymen of such parish be changed to either three, six or nine vestrymen, notice of such recommendation shall be included in the notice of the next annual election of such parish, and be submitted to the meeting. If such recommendation be ratified by such meeting, the presiding officer thereof, and at least two qualified voters present thereat, shall execute and acknowledge a certificate setting forth such resolution of the vestry, the fact that notice thereof had been given with the notice of such annual election; that the meeting had ratified the same; and the number of vestrymen so decided on. Such certificate shall be filed in the office of the clerk of the county in which the original

certificate of incorporation is filed and recorded, and such change in the number of vestrymen shall take effect at the time of the next annual election thereafter. If the number of vestrymen be thereby increased, then, in addition to the number of vestrymen to be elected at such annual election, one-third of such increased number of vestrymen shall be elected to hold office for one year thereafter, one-third of such increased number shall be elected to hold office for two years thereafter, and one-third of such increased number shall be elected to hold office for three years thereafter. If the number of vestrymen by such change be reduced, such reduction shall not affect the term of office of any vestryman duly elected, and at such next annual election, and at each annual election thereafter, one-third of such reduced number of vestrymen shall be elected to hold office for three years.

(Am'd ch. 358 of 1898.)

§ 35. **Changing date of annual election, number and terms of office of vestrymen and terms of office of churchwardens in Protestant Episcopal churches heretofore incorporated.**— If the vestry of a Protestant Episcopal parish, heretofore incorporated, shall by resolution, recommend that the date of the annual election be changed to a secular day in the week beginning with the first Sunday in Advent, or that the number of vestrymen be changed to three, six or nine, and that the terms of office of the churchwardens be changed so that one warden shall be elected annually, notice of such recommendation or recommendations shall be included in the notice of the next annual election of such parish, and be submitted to the meeting. If such recommendation or recommendations be ratified by such meeting, the presiding officer thereof and at least two qualified voters present thereat, shall execute and acknowledge a certificate setting forth such resolution of the vestry; the fact that notice thereof had been given with the notice of the annual election; that such meeting had ratified the same; the date determined upon for the annual election of the parish; the number of vestrymen so decided on; and the fact that

the meeting determined to thereafter elect churchwardens, so that the term of one warden shall expire annually. Such certificate shall be filed in the office of the clerk of the county in which the original certificate of incorporation is filed and recorded. If the meeting determined to change the date of the annual election, the next annual election shall be held on the day in the week beginning with the first Sunday in Advent, determined on at such meeting, and the terms of the vestrymen and churchwardens which, pursuant to law, would expire at the next annual election shall expire and their successors shall be elected on such day. If the meeting determine to change the number of vestrymen and manner of electing wardens and vestrymen, there shall be elected at the first annual election thereafter, one-third of the number of vestrymen so determined on, to hold office for three years; one-third thereof to hold office for two years; and one-third thereof to hold office for one year; and one churchwarden to hold office for one year, and one to hold for two years; and thereafter at the annual election there shall be elected one-third of the number of vestrymen determined on at such meeting and one churchwarden.

(Am'd ch. 358 of 1898.)

§ 36. **Changing the qualifications of voters and the qualifications of wardens and vestrymen.**— If the vestry of a Protestant Episcopal parish heretofore incorporated shall by resolution recommend that the qualifications of voters and the qualifications of wardens and vestrymen be changed to conform in both cases to the requirements of section thirty-three of this statute, notice of such recommendation or recommendations shall be included in the notice of the next annual election of such parish, and be submitted to the meeting. If such recommendation or recommendations be ratified by such meeting the presiding officer thereof and at least two qualified voters present thereat shall execute and acknowledge a

certificate setting forth such resolution of the vestry, the fact that notice thereof had been given with the notice of such annual election, and that the meeting had ratified the same. Such certificate shall be filed in the office of the clerk of the county in which the original certificate of incorporation is filed and recorded.

(Am'd, ch. 358 of 1898.)

[See form, No. 36.

As churches incorporated before 1828 are not subject to provisions of law affecting their corporate charters (People ex rel. Sturges v. Keese, 27 Hun, 483), an action of the corporation would probably be necessary in conformity with this section to adopt the provisions of this act as to the qualifications of voters, vestrymen and churchwardens contained in § 30.]

ARTICLE III.

Special Provisions for the Incorporation and Government of Presbyterian Churches.

Section 37. Application of this article.
38. Calling, et cetera, of a minister.
39. Worship.
40. Incorporation of incorporated Presbyterian churches, and decision as to system of incorporation and government.
41. Changing system of trustees.
42. Corporate meetings.
43. Organization and conduct of corporate meetings, qualifications of voters thereat, et cetera.
44. Changing date of annual corporate meetings.
45. Changing number of trustees.
46. Trustees, their meetings, vacancies and filling thereof, their powers, et cetera.
47. Definitions.

Added by chap. 97, L. of 1902. In effect March 6, 1902.

Section 37. **Application of this article.**—This article and sections thirty-seven to forty-seven, inclusive, of this act, applies

only to a Presbyterian church in connection with the general assembly of the Presbyterian church in the United States of America.

§ 38. **Calling, et cetera, of a minister.**—The election, calling, settlement, installation, dismissal, removal, translation, constituting or dissolving of the pastoral relation, or fixing or changing of the salary of a minister or pastor of a Presbyterian church in connection with the general assembly of the Presbyterian church in the United States of America, or taking any action for or toward any such purpose, and the calling and conduct of a meeting of any such church for any such purpose, and the qualification of voters at any such meeting, is not authorized or regulated or controlled by any provision of this act, but the same shall be in all respects, done, and regulated, and any meeting therefor called, conducted, and controlled, only in accordance with the laws, regulations, practice, discipline, books of government, rules and usages of the ecclesiastical governing body of such church and of the Presbyterian church in the United States of America, except that the salary of any such minister may be increased at any corporate meeting of any such church.

§ 39. **Worship.**—Nothing in this act contained shall authorize the fixing or changing of the times, nature or order of public or social or other worship of any Presbyterian church, in any other manner, or by any other authority, than in the manner and by the authority provided in the laws, regulations, practice, discipline, rules and usages of the Presbyterian religious denomination or ecclesiastical governing body, with which such church is connected.

§40. **Incorporation of unincorporated Presbyterian churches and decision as to system of incorporation and government.**—A meeting for the purpose of incorporation of an unincorporated Presbyterian church in connection with the Presbyterian church in the United States of America, must be called and held in pursuance of the provisions of this article.

1. The notice and call of such meeting shall be in writing, and shall state in substance, that a meeting of such unincorporated church will be held at its usual place of worship at a specified day and hour for the purpose of incorporating such church and designating the trustees thereof. The notice must be signed by at least six persons of full age who are then members in good and regular standing of such church by admission into full communion or membership therewith, in accordance with the rules and regulations of such church, and of the governing ecclesiastical body of the denomination or order, to which the church belongs. A copy of such notice shall be posted conspicuously on the outside of the main entrance to such place of worship, at least fifteen days before the day so specified for such meeting, and such notice shall be publicly read at each of the two next preceding regular meetings of such unincorporated church for public worship, at least one week apart, at morning service, if such service be held on Sunday, by the first named of the following persons who is present thereat, to wit: The minister of such church, the officiating minister thereof, the elders thereof in the order of their age beginning with the oldest, the deacons of the church in the order of their age beginning with the oldest, or by any person qualified to sign such notice.

2. At the meeting for incorporation held in pursuance of such notice, the following persons, and no others, shall be qualified voters, to wit: All persons of full age, who are then members, in good and regular standing of such church by admission into full communion or membership therewith, in accordance with the rules and regulations thereof, and of the governing ecclesiastical body of the denomination or order to which the church belongs. The presence of a majority of such qualified voters, at least six in number, shall be necessary to constitute a quorum of such meeting. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon, a quorum being present.

3. The first named of the following persons who is present

at such meeting shall preside thereat, to wit: The minister of the church, the officiating minister thereof, the elders thereof in the order of their age, beginning with the oldest, the deacons thereof in the order of their age, beginning with the oldest. The presiding officer of the meeting shall receive the votes, be the judge of the qualifications of voters, and declare the result of the votes cast on any matter. Nothing contained in this section, or in this act, shall prevent the qualified voters at any such meeting, from choosing another person, a qualified voter, to preside at such meeting, other than the person or officer above designated.

4. The first business of such meeting after its organization, shall be to determine whether such church shall be incorporated, and if so, the name of such church, and whether its temporalities shall be managed by the spiritual officers of such church as the trustees thereof, or whether its temporalities shall be managed by trustees to be elected by the church.

5. If such meeting shall determine that such church shall be incorporated and its temporalities managed by the spiritual officers of such church as the trustees thereof, then the meeting shall also determine whether by virtue of their office, the deacons only of such church, or the pastor, ruling elders and deacons of such church, or the pastor and ruling elders of such church shall manage its temporalities, and be the trustees of such corporation.

6. If such meeting shall determine that such church shall be incorporated and its temporalities managed by trustees to be elected by the church, it shall further determine the number of the trustees of such church, which shall not be less than three nor more than nine, and shall further determine the date not more than fifteen months thereafter on which the first annual election of the trustees thereof after such meeting shall be held, and such meeting shall elect from the persons qualified to vote at such meeting, one-third of the number of trustees so decided on who shall hold office until the first annual election of trustees thereafter, one-third of such number of trustees to hold office until the second annual elec

tion of trustees thereafter, and one-third of such number of trustees to hold office until the third annual election of trustees thereafter.

7. If any such meeting shall determine that such church shall incorporate in pursuance of this article, the presiding officer and at least two other persons present at such meeting, shall execute, acknowledge and cause to be filed and recorded, as provided in this act, a certificate of incorporation. Such certificate of incorporation shall state the name of the proposed corporation; the county and town, city or village, where its principal place of worship is or is intended to be located; the fact that a meeting of such church duly called decided that such church be incorporated, also the determination of such meeting of all the matters required in this article to be determined by such meeting, and, as the case shall be, the names of the persons elected as trustees, and the term for which each was elected, or the names of the spiritual officers and their offices, who, by the determination of such meeting, are by virtue of their office to be trustees of such corporation. On filing such certificate such church shall be a corporation by the name stated therein, and the officers determined upon by the meeting for incorporation and their successors in office, by virtue of their office, if they be spiritual officers of such church, shall be the trustees of such corporation, or if, by said meeting it was determined that the trustees should be elected as such, then such as were so elected by said meeting as trustees, and their successors in office shall be the trustees of such corporation.

§ 41. **Changing system of trustees.**—1. If the trustees of an incorporated Presbyterian church in connection with the Presbyterian church in the United States of America, shall at any time be elective as trustee, and not trustees by virtue of being spiritual officers, the church may, at an annual corporate meeting if notice thereof be given with the notice of such meeting, determine that the deacons thereof, or the pastor, the ruling elders, and the deacons thereof or the pastor

and the ruling elders thereof, shall thereafter constitute the trustees thereof, and thereupon the presiding officer at such meeting and at least two other persons present thereat, shall sign, acknowledge and cause to be filed and recorded, a certificate stating the fact of such determination, the names of the officers determined upon to be the ex-officio trustees thereof; and thereon the terms of office of such elective trustees shall cease, and the officers determined upon by such corporate meeting, and their successors in office shall, by virtue of their respective offices, be the trustees of such church.

2. If, at any time, the spiritual officers of an incorporated Presbyterian church in connection with the Presbyterian church in the United States of America, which officers by virtue of their offices constitute the trustees thereof, shall determine to submit to a meeting of such church corporation, the question whether the trustees of such church shall be thereafter elective as such trustees, they shall cause a special corporate meeting of such church to be called and held in the manner provided in section forty-two of this act, and such corporate meeting shall determine, whether the trustees of such church shall thereafter be elective in pursuance of this article of this act, and also whether the number of such trustees shall be three, six or nine, and date of the annual corporate meeting of the church. If such meeting shall determine that such trustees shall thereafter be elective as such trustees, and the number of such trustees, and the date of the first annual corporate meeting of the church, the presiding officer thereof and at least two other persons present and voting thereat, shall sign, acknowledge and cause to be filed and recorded in the office of the clerk of the county in which the certificate of incorporation of such church is filed, a certificate of such determination of such meeting; and thereafter the trustees of such church shall be elective in pursuance of this article of this chapter. At the next annual corporate meeting after the filing of such certificate, one-third of the number of trustees so determined on, shall be elected to hold office for one year, one-third for two years, and one-

third for three years, and the officers of such church who by virtue of their offices have been trustees of such church, shall then cease to be such trustees, and thereafter the trustees of such church and their successors shall be elective as such trustees as in this article provided. At each subsequent annual corporate meeting of such church, one-third of the number of trustees so determined on shall be elected to hold office for three years.

§ 42. **Corporate meetings.**—1. In every incorporated church to which this article of this chapter applies and in which the trustees thereof as such are elective, there shall be held an annual corporate meeting. Such annual corporate meeting of every incorporated church to which this article is applicable, shall be held at the time and place fixed by or in pursuance of law therefor, if such time and place be so fixed, and otherwise, at a time and place to be fixed by its trustees.

2. A special corporate meeting of any such church may be called by trustees thereof on their own motion, and must be so called on the written request of at least ten qualified voters of such church, and shall be called and notice thereof given in the same manner as for an annual corporate meeting.

3. The trustees shall cause notice of the time and place of its corporate meetings, to be given at a regular meeting of the church for public worship, at morning service, if such service be held, on each of the two successive Sundays next preceding such meeting, and public worship be had thereon, or otherwise on each of two days, at least one week apart, next preceding such meeting; or if no such public worship be held during such period by conspicuously posting such notice, in writing, upon the outer entrance to the principal place of worship of such church. Such notice shall be given by the minister of the church, if there be one, or by the officiating minister thereof, if there be one, or by any officer of such church. If such notice be of an annual corporate meeting it shall specify the names of the trustees whose successors are to be elected thereat; if such notice be of a special corporate meeting, it shall specify the particular business to be transacted thereat, and no other business shall be transacted at such special corporate meeting.

4. Whenever in any such incorporated church, by virtue of their offices, any of the spiritual officers thereof are the trustees thereof, they may in their discretion call special corporate meetings of such incorporated church; and in such case such meetings shall be called by the same notice pub-

lished or posted in the same manner as herein provided for the notice of such a meeting by the trustees of such a church elected as such; and in each such case such notice must specify the particular business to be transacted at such meeting, and no other business shall be transacted at such special corporate meeting.

§ 43. **Organization and conduct of corporate meetings; qualifications of voters thereat, et cetera.**—1. At a corporate meeting of an incorporated church to which this article is applicable the following persons and no others shall be qualified voters, to wit: All persons of full age who are then members in good and regular standing of such church by admission into full communion and membership therewith, in accordance with the rules and regulations thereof, and of the governing ecclesiastical body, of the denomination to which the church belongs, or who have been stated attendants on divine worship in such church and have regularly contributed to the financial support thereof during the year next preceding such meeting.

2. The presence at any corporate meeting of an incorporated church of at least six persons qualified to vote thereat shall be necessary to constitute a quorum. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon, a quorum being present.

3. The first named of the following persons who is present at any corporate meeting of any incorporated church shall preside thereat, to wit: The minister of such church, the officiating minister thereof, the officers thereof in the order of their age, beginning with the oldest; any qualified voters elected therefor at the meeting.

4. Nothing contained in this act shall prevent the qualified voters at any meeting held pursuant to this act from choosing a person to preside at any corporate meeting of any incorporated church, other than the person or officer designated in this act to preside thereat, and when such other person shall be chosen he shall exercise all the powers in this act conferred upon the presiding officer of such meeting.

5. The presiding officer of a corporate meeting shall receive the votes, be the judge of the qualifications of voters, and declare the result of the votes cast on any matter. The polls of an annual corporate meeting shall continue open for one hour, or until all qualified voters present shall have had a

full opportunity to vote, and longer in the discretion of the presiding officer, or if required by a majority of the qualified voters present.

6. At each annual corporate meeting successors to those trustees whose terms of office then expire shall be elected from the qualified voters by ballot for a term of three years thereafter.

§ 44. **Changing date of annual corporate meetings.**—An annual corporate meeting of an incorporated church to which this article is applicable, may change the date of its annual meeting thereafter. If such date shall next thereafter occur less than six months after the annual meeting at which such change is made the next annual meeting shall be held one year from such next recurring date. For the purpose of determining the terms of office of trustees, the time between the annual meeting at which such change is made and the next annual meeting thereafter shall be reckoned as one year.

§ 45. **Changing number of trustees.**—An incorporated church to which this article is applicable, may, at an annual corporate meeting, change the number of its trustees to three, six or nine, and classify them so that the terms of one-third expire each year. No such change shall effect the terms of the trustees then in office, and if the change reduces the number of trustees it shall not take effect until the number of trustees whose terms of office continue for one or more years after an annual election, is less than the number determined upon. Whenever the number of trustees so holding over is less than the number so determined on, trustees shall be elected in addition to those so holding over sufficient to make the number of trustees for the ensuing year equal to the number so determined on. The trustees so elected up to and including one-third of the number so determined on, shall be elected for three years, the remainder up to and including one-third of the number so determined on for two years and the remainder for one year.

§ 46. **Trustees, their meetings, vacancies and filling thereof, their powers, et cetera.**—1. Two trustees of an incorporated church, to which this article is applicable, may call a meeting of such trustees by giving at least twenty-four hours notice thereof personally or by mail to the other trustees. A majority of the trustees lawfully convened shall constitute a quorum for the transaction of business. In case of a tie vote at a meet-

ing of the trustees, the presiding officer of such meeting shall, notwithstanding he has voted once, have an additional casting vote.

2. If any trustee of an incorporated church to which this article is applicable, declines to act, resigns or dies, or having been a member of such church, ceases to be such member, or not having been a member of such church, ceases to be a qualified voter at a corporate meeting thereof, his office shall be vacant and such vacancy may be filled by the remaining trustees until the next annual corporate meeting of such church, at which meeting the vacancy shall be filled for the unexpired term.

3. The trustees of an incorporated church to which this article is applicable shall have the custody and control of all the temporalities and property belonging to the corporation and of the revenues from such property, and shall administer the same in accordance with the discipline, rules, usages, laws, and book of government of the religious denomination or ecclesiastical governing body with which the church is connected, and with the provisions of law relating thereto, for the support and maintenance of the church corporation or providing the members thereof at a corporate meeting thereof shall so authorize, of some religious, charitable, benevolent, or educational object, conducted by such church, or connected with it, or with the denomination with which it is connected, and they shall not use such property or revenue for any other purpose or divert the same from such uses.

4. By-laws, or directions, adopted at any corporate meeting of any such incorporated Presbyterian church shall control the subsequent action of its trustees, as to the temporalities and property or revenues therefrom, and as to the care thereof, and changes in either thereof and disposition thereof.

5. The words "temporalities," "property," "revenue" and "revenues," as used in this section, or elsewhere in this act, shall not be construed to include the contributions in such church or elsewhere for benevolent or other purposes, which shall be contributed and paid to the pastor or pastors, ruling elders, the church session, or the deacons of any such church, either in the church services or otherwise, to be distributed, or used, or administered, by them, or any, or either of them, nor to any funds or property devised, bequeathed or contributed, to be administered or expended by such pastor

or pastors, ruling elders, church session, deacons or other spiritual officers of such church.

6. The trustees of any such church shall have no power, without the consent of a corporate meeting, to incur debts beyond what is necessary for the care of the property of the corporation.

§ 47. **Definitions.**—The words, "spiritual officers," as used in this article includes, the pastor or pastors, the ruling elders, and the deacons, of any church to which this article is applicable.

Added by ch. 97 of 1902. In effect March 6, 1902.

ARTICLE III.

Special Provisions for the Incorporation and Government of Roman Catholic and Greek Churches.

Section 50. Incorporation of Roman Catholic and Greek churches.
51. Government of incorporated Roman Catholic churches.

§ 50. Incorporation of Roman Catholic and Greek churches.—An unincorporated Roman Catholic church, or an unincorporated Christian Orthodox Catholic church of the Eastern Confession, in this state may become incorporated as a church by executing, acknowledging and filing a certificate of incorporation, stating the corporate name by which such church shall be known and the county, town, city or village where its principal place of worship is, or is intended to be, located.

A certificate of incorporation of an unincorporated Roman Catholic church shall be executed and acknowledged by the Roman Catholic archbishop or bishop, and the vicar-general of the diocese in which its place of worship is, and by the rector of the church, and by two laymen, members of such church who shall be selected by such officials, or by a majority of such officials.

A certificate of incorporation of an unincorporated Christian

Orthodox Catholic church of the Eastern Confession shall be executed and acknowledged by the envoy extraordinary and minister plenipotentiary, and the consul-general of Russia to the United States, then acknowledged and received as such by the United States.

On filing such certificate such church shall be a corporation by the name stated in the certificate.

[See form, No. 37.

L. 1863, ch. 45, § 1, sub. 1; R. S., 8th ed., 1889.
L. 1871, ch. 12, § 1, sub. 1; R. S., 8th ed., 1890.
Without material change in substance.

The members of the church and congregation are the corporators of a Roman Catholic church, and the trustees simply the governing body. People's Bank v. St. Anthony's Roman Cath. Ch., 109 N. Y. 512.

As to place of filing certificate, see § 3 and cases cited.

The general qualifications of incorporators, the naming of the corporation and other general regulations as to certificates, are provided by General Corp. L., §§ 3-9.

The persons before whom acknowledgments may be taken are specified in statutiry construction law, § 15.

§ 51. **Government of incorporated Roman Catholic and Greek churches.**—The archbishop or bishop and the vicar-general of the diocese to which any incorporated Roman Catholic church belongs, the rector of such church, and their successors in office shall, by virtue of their offices, be trustees of such church. Two laymen, members of such incorporated church, selected by such officers or by a majority of them, shall also be trustees of such incorporated church, and such officers and such laymen trustees shall together constitute the board of trustees thereof. The two laymen signing the certificate of incorporation of an incorporated Roman Catholic church shall be the two laymen trustees thereof during the first year of its corporate existence. The term of office of the two laymen trustees of an incorporated Roman Catholic church shall be one year. Whenever the office of any such layman trustee shall become vacant by expiration of term of office or otherwise, his successor shall be appointed from members of the church, by such officers or a majority of them. No act or proceeding of the trustees of any such incorporated church shall be valid without the sanction of the archbishop or bishop of the diocese to which such church belongs, or in case of their absence or inability to act, without the sanction of the vicar-general or of the administrator of such diocese.

The envoy extraordinary and minister plenipotentiary, and the consul-general of Russia to the United States, acknowledged and received as such, and their successors in office shall, by virtue of office, be the trustees of every incorporated Christian Orthodox Catholic church of the Eastern Confession in this state. The trustees of any such church shall have power to fix and change the salary of the rector and his

assistant, appointed or commissioned according to the rules and usages of the denomination to which such church belongs.

L. 1863, ch. 45, § 1, subs. 1-2; R. S., 8th ed., 1890.
L. 1871, ch. 12, § 1, subs. 1-2; R. S., 8th ed., 1890.

For powers of trustees in relation to the property of the corporation, see §§ 4, 5 and 11, and notes.

For powers of trustees in relation to the minister, see notes to § 5 under head of "Minister."

§ 52. **Division of Roman Catholic parish; disposition of property.**— Wherever a Roman Catholic parish has been heretofore or shall hereafter be duly divided by the Roman Catholic bishop having jurisdiction over said parish, and the original Roman Catholic church corporation is given one part of the old parish, and a new or second Roman Catholic church corporation is given the remaining part of the old parish, and it further appears that by reason of the said division the original Roman Catholic church corporation holds title to real property situate within the part of the old parish that was given to the new or second Roman Catholic church corporation, then the said Roman Catholic bishop or his successor shall have the right and power, of himself, independently of any action or consent on the part of the trustees of the original Roman Catholic church corporation, to transfer the title of the said real property, with or without valuable consideration, to the said new or second Roman Catholic church corporation. Said transfer shall be made by the said Roman Catholic bishop or his successor after having complied with the requirements of the code of civil procedure in the same manner as the trustees of any religious corporation are compelled to do before making a transfer of church property. If a valuable consideration is paid for the transfer the same shall be received by the said Roman Catholic bishop or his successor and distributed between the said original Roman Catholic church corporation and the new or second Roman Catholic church corporation in such proportions as in the discretion of the said bishop, or his successor, may deem proper.

Added by ch. 365 of 1902. In effect April 3, 1902.

ARTICLE V.

Special Provisions for the Incorporation and Government of Reformed Dutch, Reformed Presbyterian and Lutheran Churches.

Section 60. Decision by a Reformed Dutch or Reformed Presbyterian church, as to system of incorporation and government.
61. Decision by Evangelical Lutheran church as to system of incorporation and government.
62. Incorporation of Reformed Dutch, Reformed Presbyterian and Evangelical Lutheran churches under this article.
63. Consistory of a Reformed church in America.
64. Reformed churches in America, changing system of choosing trustees. Minister; how chosen.

Section 65. Reformed Presbyterian churches, changing system of choosing trustees. Pew rents and minister's salary.
66. Evangelical Lutheran church, changing system of choosing trustees.

§ 60. **Decision by a Reformed Dutch or Reformed Presbyterian church as to system of incorporation and government.**—The minister or ministers, if there be any, and the elders and deacons of an unincorporated church in connection with the Reformed church in America, the true Reformed Dutch church in the United States of America, or with the Reformed Presbyterian church, may determine to incorporate such church in pursuance of this article, or to call a meeting of such unincorporated church for the purpose of deciding whether such church shall be incorporated in pursuance of the next article of this chapter, entitled "Special provisions for the incorporation and government of churches of other denominations."

If such ministers, elders and deacons determine to call such meeting for such purpose, then such church may be incorporated and shall be governed after its incorporation in pursuance of the provisions of the next article of this chapter, except such provisions thereof as are applicable to churches of a single denomination only, and except that the notice of the meeting for incorporation shall be signed by such ministers, elders and deacons or a majority of them, and no other signatures thereto shall be necessary to its validity; and, if it be a Reformed church in America, it shall, after incorporation, be governed by such of the provisions of this article as relates to its consistory and to the choice of its minister.

[L. 1813, ch. 60, § 2; R. S., 8th ed., 1884.
L. 1883, ch. 187, § 1; R. S., 8th ed., 1892.
L. 1825, ch. 303, § 1; R. S., 8th ed., 1892.
Without material change of substance.]

§ 61. **Decision by Lutheran church as to system of incorporation and government.**—A meeting for the purpose of incorporating an unincorporated Evangelical Lutheran church must be called and held in pursuance of the provisions of article eight of this chapter, except that the first business of such meeting after its organization, shall be to determine whether such church shall be incorporated and governed in pursuance of this article, or in pursuance of article eight of this chapter. If such meeting determines that said church shall be incor-

porated and governed in pursuance of this article, then no further proceeding shall be taken in pursuance of article eight, and such church may be incorporated and shall be governed after its incorporation in pursuance of the provisions of the following sections of this article, except such provisions as are applicable only to churches of a different denomination; and the certificate of incorporation shall recite such determination of such meeting. If such meeting determine that such church shall be incorporated and governed in pursuance of article eight of this chapter, then this article shall not be applicable thereto, but such church may be incorporated and shall be governed after its incorporation in pursuance of the provisions of article eight of this chapter, except such provisions as are applicable to churches of a single religious denomination only.

Amended by chap. 190, L. 1896. In effect April 1, 1896.
Amended by chap. 97, L. of 1902. In effect March 6, 1902.

§ 62. **Incorporation of Reformed Dutch, Reformed Presbyterian and Evangelical Lutheran churches under this article.**—If any unincorporated church in connection with the Reformed church in America, the true Reformed Dutch church in the United States of America, the Reformed Presbyterian church, or with the Evangelical Lutheran church, determine to incorporate in pursuance of this article, the minister or ministers and the elders and deacons thereof shall execute, acknowledge and cause to be filed and recorded, a certificate in pursuance of this article. The deacons of a Reformed Presbyterian church may alone sign such certificate if authorized so to do by such church. Such certificate of incorporation shall state the name of the proposed corporation, the county and town, city or village, where its principal place of worship is or is intended to be located, and, if it be an Evangelical Lutheran church, the fact that a meeting of such church duly called decided that it be incorporated under this article. If it be signed by the deacons of a Reformed Presbyterian church, it shall state that they were authorized so to do by such church. On filing such certificate such church shall be

a corporation by the name stated therein, and the minister or ministers, if any, and the elders and deacons of such church shall, by virtue of their offices be the trustees of such corporation, except that if it be a Reformed Presbyterian church, the certificate of incorporation of which shall have been, in pursuance of law, signed by its deacons only, the deacons of such church shall, by virtue of their offices, be the trustees of such corporation.

Amended by chap. 190, L. 1896. In effect April 1, 1896.
Amended by chap. 97, L. 1902. In effect March 6, 1902.

[See form, No. 38.

L. 1813, ch. 60, § 2; R. S., 8th ed., 1884.
L. 1822, ch. 187, § 1; R. S., 8th ed., 1892.
L. 1825, ch. 303, § 1; R. S., 8th ed., 1892.
L. 1866, ch. 447; R. S., 8th ed., 1890.
L. 1886, ch. 16; R. S., 8th ed., 1816.
L. 1887, ch. 406; § 1; R. S., 8th ed., 1916.

The following is the reviser's note to this section:

"The only material change is in allowing option to Reformed Dutch system of churches to incorporate with either ex officio or elective system of choosing trustees. By the present law they can only incorporate with the ex officio system, but may afterwards change to the elective system. It seems desirable that they should be allowed to originally incorporate with the elective system instead of incorporating with one system and immediately changing to the other. The "church" instead of the trustees is constituted the corporation by the interpretation of the courts is no change in substance."

As to place of filing certificate, see § 3 and cases cited.

The general qualification of incorporators, the naming of the corporation and other general regulations as to certificates, are provided by general corporation law, §§ 3-9. The persons before whom acknowledgments may be taken, are specified in statutory construction law, see § 15.

For powers of trustees in relation to property of the corporation, see §§ 4, 5 and 11 and notes.

For powers of trustees in relation to minister, see notes to § 5, under head of "Minister."]

§ 63. **Consistory of a Reformed church in America; ministers, how chosen.**—Any church in connection with the Reformed church in America, the choice or election of the members of whose consistory is not subject to the ecclesiastical rules or jurisdiction of such Reformed church in America, shall, if the

consistory so determine, be subject to such rules and jurisdiction; and thereafter the choice of the members of the consistory shall be in accordance with such rules and practices.

If any such church be incorporated under the next article of this chapter, or if its trustees be elective in pursuance of such article, its board of trustees and its consistory shall act concurrently in the choice of its minister.

[L. 1835, ch. 90, § 1; R. S., 8th ed., 1894.

Without change of substance.

As to settling minister, see § 5, notes, ante., under head of "Minister."

Under the constitution of the Reformed Protestant Dutch Church in America, the relation between the pastor who has charge and his congregation may be dissolved by the classis within whose bounds such church is located. Connitt v. The Reformed, etc., Church, 54 N. Y. 551.]

§ 64. **Reformed churches in America, changing system of choosing trustees; minister, how chosen.**—If the ministers, elders and deacons who, at any time, by virtue of their offices, constitute the trustees of any Reformed church in America, determine that the trustees of such church shall thereafter be elective in pursuance of the next article of this chapter, and shall determine whether the number of such trustees shall be three, six or nine, and the date of the annual corporate meeting of the church, they may sign, acknowledge and cause to be filed and recorded in the office of the clerk of the county in which the certificate of incorporation of such church is filed or recorded, a certificate of such determinations. Thereafter the trustees of such church shall be elective in pursuance of the provisions of the next article of this chapter, relating to the election of trustees of incorporated churches. At the next annual corporate meeting after the filing of such certificate, one-third of the number of trustees so determined on shall be elected to hold office for one year, one-third for two years and one-third for three years, and the minister, elders and deacons shall cease to be the trustees of such church. At each subsequent annual corporate meeting of such church, one-third of the number of trustees so determined on shall be elected to hold office for three years.

If the trustees of an incorporated Reformed church in America are at any time elective, in pursuance of the next article of this

chapter, the board of trustees and the consistory thereof may concurrently determine that the minister or ministers, if any, and the elders and deacons of such church shall constitute the trustees thereof. Thereon the president and clerk of the consistory and the president and clerk of the board of trustees shall sign and acknowledge and cause to be filed and recorded in the office of the clerk of the county in which the original certificate of incorporation is filed or recorded, a certificate of such determination, stating the names of such ministers, elders and deacons. On so filing and recording such certificate, such board of trustees shall be dissolved, and the minister or ministers, and elders and deacons of such church, and their successors in office shall constitute the trustees of such church.

[See form, No. 39.
L. 1835, ch. 90, § 8; R. S., 8th ed., 1893.
L. 1883, ch. 501, § 1.]

§ 65. **Reformed Presbyterian churches, changing system of choosing trustees; pew rents and minister's salary.**— If any incorporated Reformed Presbyterian church, at a meeting of the church or congregation, determine that the deacons of such church shall be the trustees thereof, then the deacons of such church actively engaged in the exercise of their offices therein, and their successors in office, shall, by virtue of their respective offices, be the trustees of such church. The salary of the minister and the pew rents in any such church shall be fixed by the vote of the congregation, and the trustees shall not fix or change the same.

[L. 1822, ch. 187; R. S., 8th ed., 1892.
L. 1866, ch. 477; R. S., 8th ed., 1899.
Without change of substance.
For powers of trustess, see §§ 2-5, 11, ante.]

§ 66. **Evangelical Lutheran church, changing system of electing trustees.**—If the trustees of an incorporated Evangelical Lutheran church shall at any time be elective in pursuance of article eight of this chapter, the church may, at an annual

corporate meeting, if notice thereof be given with the notice of such meeting determine that the minister or ministers and elders and deacons thereof shall thereafter constitute the trustees thereof, and thereon the trustees of such church shall sign, acknowledge and cause to be filed and recorded, a certificate stating the fact of such determination, and the name of the minister or ministers, if any, and of the elders and deacons of such church; and thereon the terms of office of such elective trustees shall cease, and, the minister or ministers and the elders and deacons of such church, and their successors in office shall, by virtue of their respective offices, be the trustees of such church. If, at any time, the offices of an incorporated Evangelical Lutheran church, which officers by virtue of their offices constitute the trustees thereof, shall determine to submit to a meeting of such church corporation, the question whether the trustees of such church shall be thereafter elective in pursuance of article eight of this chapter, they shall cause a corporate meeting of such church to be called and held in the manner provided in sections eighty-four and eighty-five of this chapter, and such corporate meeting shall determine, whether the trustees of such church shall thereafter be elective in pursuance of article eight of this chapter, and also whether the number of such trustees shall be three, six or nine, and the date of the annual corporate meeting of the church. If such meeting shall determine that such trustees shall thereafter be elective, the presiding officer thereof and at least two other persons present and voting thereat, shall sign, acknowledge and cause to be filed and recorded in the office of the clerk of the county in which the certificate of incorporation of such church is filed, a certificate of such determination of such meeting; and thereafter

the trustees of such church shall be elective in pursuance of article eight of this chapter. At the next annual corporate meeting after the filing of such certificate, one-third of the number of trustees so determined on shall be elected to hold office for one year, one-third for two years, and one-third for three years, and the officers of such church who by virtue of their offices have been trustees of such church, shall then cease to be such trustees, and thereafter article eight of this chapter shall apply to such church. At each subsequent annual corporate meeting of such church, one-third of the number of trustees so determined on shall be elected to hold office for three years.

Amended by chap. 190, L. 1896. In effect April 1, 1896.
Amended by chap. 97, L. of 1902. In effect March 6, 1902.
[See form, No. 40.
L. 1886, ch. 16; R. S., 8th ed., 1916.
L. 1887, ch. 406; R. S., 8th ed., 1916.
Without change or substance.
For powers of trusteees, see §§ 2–5, 11 ante.]

ARTICLE VI.*

Special Provisions for the Incorporation and Government of Baptist Churches.

Section 67. Notice of meeting for incorporation.
68. The meeting for incorporation.
69. The certificate of incorporation.
70. Time, place and notice of corporate meetings.
71. Organization and conduct of corporate meetings; qualifications of voters thereat.
72. Changing date of annual corporate meetings.
73. Changing number of trustees.
74. Meetings of trustees.
75. The creation and filling of vacancies among trustees of such churches.

Changed from art. V to art. VI of ch. 97, L. 1902.
* Added by ch. 397, L. 1896. In effect April 21, 1896.

Section 76. Control of trustees by corporate meetings of such churches; salaries of ministers.
77. Transfer of property to the Baptist Missionary Convention of the State of New York.

Section 67. **Notice of meeting for incorporation.**—Notice of a meeting for the purpose of incorporating an unincorporated Baptist church shall be given as follows: The notice shall be in writing, and shall state, in substance, that a meeting of such unincorporated church will be held at its usual place of worship at a specified day and hour, for the purpose of incorporating such church, electing trustees thereof, and selecting a corporate name therefor. The notice must be signed by at least six persons of full age, who are then members in good and regular standing of such church by admission into full communion or membership therewith. A copy of such notice shall be publicly read at a regular meeting of such unincorporated church for public worship, on the two successive Sundays immediately preceding the meeting, by the minister of such church, or a deacon thereof or by any person qualified to sign such notice.

§ 68. **The meeting for incorporation.**—At the meeting for incorporation, held in pursuance of such notice, the qualified voters, until otherwise decided as hereinafter provided, shall be all persons of full age, who are then members, in good and regular standing of such church, by admission into full communion or membership therewith. At such meeting the presence of a majority of such qualified voters, at least six in number, shall be necessary to constitute a quorum, and all matters or questions shall be decided by a majority of the qualified voters voting thereon. There shall be elected at said meeting from the qualified voters then present, a presiding officer, a clerk to keep the record of the proceedings of the meeting and two inspectors of election to receive the ballots cast. The presiding officer and the inspectors shall declare the result of the ballots cast on any matter, and shall be the judges of the qualifications of voters. If the meeting shall decide that such unincorporated church shall become incorporated, the meeting shall also decide upon the name of the proposed corporation, the number of the

trustees thereof, which shall be three, six or nine, and the date, not more than fifteen months thereafter, on which the first annual election of the trustees thereof shall be held, and shall decide also whether those who, from the time of the formation of such church or during the year preceding the meeting for incorporation, have statedly worshipped with such church and have regularly contributed to the financial support thereof, shall be qualified voters at such meeting for incorporation, and whether those who, during the year preceding the subsequent corporate meetings of the church shall have statedly worshipped with such church and shall have regularly contributed to the financial support thereof, shall be qualified voters at such corporate meetings. Such meeting shall thereupon elect by ballot from the persons qualified to vote thereat one-third of the number of trustees so decided on, who shall hold office until the first annual election of trustees thereafter, and one-third of such number of trustees who shall hold office until the second annual election of trustees thereafter, and one-third of such number of trustees who shall hold office until the third annual election of trustees thereafter, or until the respective successors of such trustees shall be elected.

§ 69. **The certificate of incorporation.**— If the meeting shall decide that such unincorporated church shall become incorporated, the presiding officer of such meeting and the two inspectors of election shall execute a certificate setting forth the name of the proposed corporation, the number of the trustees thereof, the names of the persons elected as trustees and the terms of office for which they were respectively elected and the county and town, city or village in which its principal place of worship is or is intended to be located. On the filing and recording of such certificate after it shall have been acknowledged or proved as hereinbefore provided, the persons qualified to vote at such meeting and those persons who shall thereafter, from time to time, be qualified voters at the corporate meetings thereof, shall be a corporation by the name stated in such certificate, and the persons therein stated to be elected trustees of such church shall be the trustees thereof, for the terms for which

they were respectively elected and until their respective successors shall be elected.

§ 70. **Time, place and notice of corporate meetings.**— The annual corporate meeting of every incorporated Baptist church shall be held at the time and place fixed by or in pursuance of law therefor, if such time and place be so fixed, and otherwise, at a time and place to be fixed by its trustees. A special corporate meeting of any such church may be called by the board of trustees thereof, on its own motion, and shall be called on the written request of at least ten qualified voters of such church. The trustees shall cause notice of the time and place of its annual corporate meeting, and of the names of any trustees whose successors are to be elected thereat; and, if a special meeting, of the business to be transacted thereat, to be publicly read by the minister of such church or any trustee thereof at a regular meeting of the church for public worship, on the two successive Sundays immediately preceding such meeting.

§ 71. **Organization and conduct of corporate meetings; qualifications of voters thereat.**—At a corporate meeting of an incorporated Baptist church the qualified voters shall be all persons of full age, who are then members of such church in good and regular standing by admission into full communion or membership therewith, or who have steadily worshipped with such church, and have regularly contributed to the financial support thereof during the year next preceding such meeting; but any incorporated Baptist church may at any annual corporate meeting thereof, if notice of the intention so to do has been given with the notice of such meeting, decide that thereafter only members of such church of full age and in good and regular standing by admission into full communion or membership therewith shall be qualified voters at the corporate meetings. At such corporate meetings the presence of at least six persons qualified to vote thereat shall be necessary to constitute a quorum, and all matters or questions shall be decided by a majority of the qualified voters voting thereon. There shall be elected at said meeting from the qualified voters then present, a presiding officer, a clerk to keep the records of the proceedings of the meeting and two inspectors of election to receive the ballots cast. The presiding

officer and the inspectors of election shall declare the result of the ballots cast on any matter and shall be the judge of the qualifications of voters. At each annual corporate meeting, successors to those trustees whose terms of office then expire, shall be elected by ballot from the qualified voters, for a term of three years thereafter, and until their successors shall be elected.

§ 72. **Changing date of annual corporate meetings.**—An annual corporate meeting of an incorporated Baptist church may change the date of its annual meeting thereafter. If the date fixed for the annual meeting shall be less than six months after the annual meeting at which such change is made, the next annual meeting shall be held one year from the date so fixed. For the purpose of determining the terms of office of trustees, the time between the annual meeting at which such change is made and the next annual meeting thereafter shall be reckoned as one year.

§ 73. **Changing number of trustees.**—An incorporated Baptist church may, at an annual corporate meeting, change the number of its trustees to three, six or nine, or classify them so that the terms of one-third expire each year, provided that notice of such intended change or classification be included in the notice of such annual corporate meeting. No such change shall affect the terms of the trustees then in office, and if the change reduces the number of trustees, elections shall not be held to fill vacancies caused by the expiration of the terms of trustees until the number of trustees equals the number to which the trustees were reduced. Whenever the number of trustees in office is less than the number so determined on, sufficient additional trustees shall be elected to make the number of trustees equal to the number so determined on. The trustees so elected up to and including one-third of the number so determined on, shall be elected for three years, the remainder up to and including one-third of the number so determined on for two years, and the remainder for one year.

§ 74. **Meetings of trustees.**—Meetings of the trustees of an incorporated Baptist church shall be called by giving at least twenty-four hours' notice thereof personally or by mail to all the trustees and such notice may be given by two of the trustees, but by the unanimous consent of the trustees a meeting may be held

without previous notice thereof. A majority of the whole number of trustees shall constitute a quorum for the transaction of business at any meeting lawfully convened.

§ 75. **The creation and filling of vacancies among trustees of such churches.**—If any trustee of an incorporated Baptist church declines to act, resigns or dies, or having been a member of such church ceases to be such member, or not having been a member of such church, ceases to be a qualified voter at a corporate meeting thereof, his office shall be vacant, and such vacancy may be filled by the remaining trustees until the next annual corporate meeting of such church, at which meeting the vacancy shall be filled for the unexpired term.

§ 76. **Control of trustees by corporate meetings of such churches; salaries of minister.**—The trustees of an incorporated Baptist church shall have no power to settle or remove a minister or to fix his salary or without the consent of a corporate meeting, to incur debts beyond what is necessary for the administration of the temporal affairs of the church and for the care of the property of the corporation; or to fix or change the time, nature or order of the public or social worship of such church.

§ 77. **Transfer of property to Baptist corporations.**—Any incorporated Baptist church, created by or existing under the laws of the state of New York, having its principal office or place of worship in the state of New York, or whose last place of worship was within the state of New York, is hereby authorized and empowered, by a vote of two-thirds of its qualified voters present and voting therefor, at a meeting regularly called for that purpose, to transfer and convey any of its property, real or personal, which it now has or may hereafter acquire, to any religious, charitable or missionary corporation connected with the Baptist denomination and incorporated by or organized under any law or laws of the state of New York, either solely, or among other purposes, to establish or maintain, or to assist in establishing or maintaining churches, schools, or mission stations or to erect, or assist in the erection of such buildings as may be necessary for any of such purposes, and on or without the payment of any money or other consideration therefor, and upon such transfer

or conveyance being made, the title to and the ownership and right of possession of the property so transferred and conveyed shall be vested in and conveyed to such grantee; provided, however, that nothing herein contained shall impair or affect in any way, any existing claim upon or lien against any property so transferred or conveyed, or any action at law or legal proceeding, and subject in respect to the amount of property the said grantee may take and hold to the restrictions and limitations of existing laws.

This article changed from Article V to Article VI by chap. 97 of 1902.

ARTICLE VII.

SPECIAL PROVISIONS FOR THE INCORPORATION AND GOVERNMENT OF CONGREGATIONAL AND INDEPENDENT CHURCHES.

Section 78. Notice of meeting for incorporation.
78a. The meeting for incorporation.
78b. The certificate of incorporation.
78c. Time, place and notice of corporate meetings.
78d. Organization and conduct of corporate meetings; qualifications of voters thereat.
78e. Changing date of annual corporate meetings.
78f. Changing number of trustees.
78g. Meetings of trustees.
78h. Vacancies among trustees.
78i. Limitation of powers of trustees.
78j. Election and salary of ministers.
78k. Transfer of property.

§ 78. **Notice of meeting for incorporation.**—Notice of a meeting for the purpose of incorporating an unincorporated Congregational or Independent church shall be given as follows: The notice shall be in writing, and shall state, in substance, that a meeting of such unincorporated church will be held at its usual place of worship at a specified day and hour, for the purpose of incorporating such church, electing trustees thereof, and selecting a corporate name therefor. The notice must be signed by at least six persons of full age, who have statedly worshipped with such church and have regularly contributed to its support, according to its usages, for at least one year or since it was formed. A copy of such notice shall be publicly read at a regular meeting of such unincorporated church for public worship, on the two successive Sundays immediately

preceding the meeting, by the minister of such church, or a deacon thereof or by any person qualified to sign such notice.

[Added, ch. 621 of 1897.]

§ 78a. **The meeting of incorporation.**—At the meeting for incorporation, held in pursuance of such notice, the qualified voters, until otherwise decided as hereinafter provided, shall be all persons of full age who have statedly worshipped with such church and have regularly contributed to its support, according to its usages, for at least one year or since it was formed. At such meeting the presence of a majority of such qualified voters, at least six in number, shall be necessary to constitute a quorum, and all matters or questions shall be decided by a majority of the qualified voters voting thereon. The meeting shall be called to order by one of the signers of the call. There shall be elected at such meeting, from the qualified voters then present, a presiding officer, a clerk to keep the record of proceedings of the meeting and two inspectors of election to receive the ballots cast. The presiding officer and the inspectors shall decide the result of the ballots cast on any matter, and shall be the judges of the qualifications of the voters. If the meeting shall decide that such unincorporated church shall become incorporated, the meeting shall also decide upon the name of the proposed corporation, the number of the trustees thereof, which shall be three, six or nine, and the date, not more than fifteen months thereafter, on which the first annual election of the trustees thereof shall be held; and it may, by a two-thirds vote, decide that all members of the unincorporated church, of full age, in good and regular standing, who have statedly worshipped with such church but who have not contributed to the financial support thereof, shall also be qualified voters at such meeting, and that such church members, who, for one year next preceding any subsequent corporate meeting, shall have statedly worshipped with such church and have been members thereof in good and regular standing, but have not regularly contributed to the financial support thereof, shall be qualified voters at such corporate meetings. Such meeting shall thereupon elect by ballot from the persons qualified to vote thereat one-third of the number of trustees so decided on, who shall hold office until the first annual election of trustees thereafter, and one-third of such number of trustees who shall hold office until the second annual election of trustees thereafter, one-third of such number of trustees who shall hold office until the third annual election of trustees thereafter, or until the respective successors of such trustees shall

be elected. Such meeting shall also elect by ballot a clerk of the corporation, who shall hold his office until the close of the next annual meeting.

[Added, ch. 621 of 1897.]

§ 78b. **The certificate of incorporation.**—If the meeting shall decide that such unincorporated church shall become incorporated, the presiding officer of such meeting and the two inspectors of election shall execute a certificate setting forth the name of the proposed corporation, the number of the trustees thereof, the names of the persons elected as trustees, the terms of office for which they were respectively elected and the county and town, city or village in which its principal place of worship is or is intended to be located. On the filing and recording of such certificate, after it shall have been acknowledged or proved as hereinbefore provided, the persons qualified to vote at such meeting and those persons who shall thereafter, from time to time, be qualified voters at the corporate meetings thereof, shall be a corporation by the name stated in such certificate, and the persons therein stated to be elected trustees of such church shall be the trustees thereof for the terms for which they were respectively elected and until their respective successors shall be elected.

[Added, ch. 621 of 1897.]

§ 78c. **Time, place and notice of corporate meetings.**—The annual corporate meeting of every church incorporated under this article shall be held at the time and place fixed by its by-laws, or if no time and place be so fixed, then at a time and place to be first fixed by its trustees, but to be changed only by a by-law adopted at an annual meeting. A special corporate meeting of any such church may be called by the board of trustees thereof, on its own motion, and shall be called on the written request of at least ten qualified voters of such church. The trustees shall cause notice of the time and place of its annual corporate meeting, and of the names of any trustees whose successors are to be elected thereat, and if a special meeting, of the business to be transacted thereat, to be publicly read by the minister of such church or any trustees thereof at a regular meeting of the church for public worship, on the two successive Sundays immediately preceding such meeting.

[Added, ch. 621 of 1897.]

§ 78d. **Organization and conduct of corporate meetings; qualification of voters.**—At every corporate meeting of a church incorporated under this article all persons of full age who, for

one year next preceding such meeting, have statedly worshipped with such church and have regularly contributed to its financial support, according to its usages, and no others, shall be qualified voters; but, if so decided, by a two-thirds vote at the original meeting or at any annual corporate meeting thereof, after notice of intention so to do has been given with every notice of such meeting, all members of such church of full age and in good and regular standing, by admission into full communion or membership therewith, who have statedly worshipped with such church, for one year next preceding the meeting at which they vote, may also be admitted as qualified voters at corporate meetings. At such corporate meetings, the presence of at least six persons qualified to vote thereat shall be necessary to constitute a quorum; and all matters or questions shall be decided by a majority of the qualified voters voting thereon, except that by-laws can be adopted or amended only by a two-thirds vote. The clerk of the corporation shall call the meeting to order; and under his supervision the qualified voters then present shall choose a presiding officer and two inspectors of election to receive the ballots cast. The presiding officer and the inspectors of election shall declare the result of the ballots cast on any matter and shall be the judges of the qualifications of voters. At each annual corporate meeting, successors to those trustees whose terms of office then expire shall be elected by ballot from the qualified voters, for a term of three years thereafter, and until their successors shall be elected. A clerk of the corporation shall be elected by ballot, who shall hold office until the close of the next annual meeting, and until his successor shall be elected.

[Added, ch. 621 of 1897.]

§ 78e. **Changing date of annual corporate meetings.** — An annual corporate meeting of any church incorporated under this article may change the date of its subsequent annual meetings. If the date fixed for the annual meeting shall be less than six months after the annual meeting at which such change is made, the next annual meeting shall be held one year from the date so fixed. For the purpose of determining the terms of office of trustees, the time between the annual meeting at which such change is made and the next annual meeting thereafter shall be reckoned as one year.

[Added, ch. 621 of 1897.]

§ 78f. **Changing number of trustees.**—Any such incorporated church may, at an annual corporate meeting, change the num-

ber of its trustees to three, six or nine, classifying them so that the terms of one-third expire each year, provided that notice of such intended change be included in the notice of such annual corporate meeting. No such change shall affect the terms of the trustees then in office; and if the change reduces the number of trustees, elections shall not be held to fill the vacancies caused by the expiration of the terms of trustees, until the number of trustees equals the number to which the trustees were reduced. Whenever the number of trustees in office is less than the number so determined on, sufficient additional trustees shall be elected to make the number of trustees equal to the number so determined on. The trustees so elected, up to and including one-third of the number so determined on, shall be elected for three years, the remainder up to and including one-third of the number so determined on for two years, and the remainder for one year.

[Added, ch. 621 of 1897.]

§ 78g. **Meetings of trustees.**—Meetings of the trustees of any such incorporated church shall be called by giving at least twenty-four hours' notice thereof personally or by mail to all the trustees; and such notice may be given by two of the trustees; but by the unanimous consent of the trustees, a meeting may be held without previous notice thereof. A majority of the whole number of trustees shall constitute a quorum for the transaction of business, at any meeting lawfully convened.

[Added, ch. 621 of 1897.]

§ 78h. **The creation and filling of vacancies among trustees of such churches.**—If any trustee of any such incorporated church declines to act, resigns or dies, or ceases to be a qualified voter at a corporate meeting thereof, his office shall be vacant; and such vacancy may be filled by the remaining trustees until the next annual corporate meeting of such church; at which meeting the vacancy shall be filled for the unexpired term.

[Added, ch. 621 of 1897.]

§ 78i. **Limitation of powers of trustees.**—The trustees of any such incorporated church shall have no power to call, settle or remove a minister or to fix his salary, nor without the consent of a corporate meeting, to incur debts, beyond what is necessary for the administration of the temporal affairs of the church and for the care of the property of the corporation; or

to fix or change the time, nature or order of the public or social worship of such church.

[Added, ch. 621 of 1897.]

§ 78j. **Election and salary of ministers.**—The ministers of any such church shall be called, settled or removed and their salaries fixed, only by the vote of a majority of the members of such corporation duly qualified to vote at elections present and voting at a meeting of such corporation specially called for that purpose, in the manner hereinbefore provided for the call of special meetings; and any such corporation may, by its by-laws, make the call, settlement or removal of its ministers dependent upon a concurrent vote of the unincorporated church connected with such corporation; and in that case the concurrence of a majority of the members of such unincorporated church, present and voting at a meeting thereof, called for that purpose, shall be necessary to the call, settlement or removal of such ministers.

[Added, ch. 621 of 1897.]

§ 78k. **Transfer of property to other corporations.**—Any incorporated Congregational church, created by or existing under the laws of the state of New York, having its principal office or place of worship in the state of New York, or whose last place of worship was within the state of New York, is hereby authorized and empowered, by the concurrent vote of two-thirds of its qualified voters present and voting therefor, at a meeting regularly called for that purpose, and of two-thirds of all its trustees, to direct the transfer and conveyance of any of its property, real or personal, which it now has or may hereafter acquire, to any religious, charitable or missionary corporation connected with the Congregational denomination and incorporated by or organized under any law or laws of the state of New York, either solely, or among other purposes, to establish or maintain, or to assist in establishing or maintaining churches, schools or mission stations, or to erect or assist in the erection of such buildings as may be necessary for any of such purposes, with or without the payment of any money or other consideration therefor; and upon such concurrent votes being given, the trustees shall execute such transfer or conveyance; and upon the same being made, the title to and the ownership and right of possession of the property so transferred and conveyed shall be vested in and conveyed to such grantee; provided, however, that nothing herein contained shall impair or

affect in any way any existing claim upon or lien against any property so transferred or conveyed, or any action at law or legal proceeding; and such transfer shall be subject, in respect to the amount of property the said grantee may take and hold, to the restrictions and limitations of all laws then in force.

[Added, ch. 621 of 1897.]

This article changed from Article VI to Article VII by chap. 97 of 1902.

ARTICLE VIII.

Special Provisions for the Incorporation of Churches of Other Denominations.

Section 80. Application of this article.
81. Notice of meeting for incorporation.
82. The meeting for incorporation.
83. The certificate of incorporation.
84. Time, place and notice of corporate meetings.
85. Organization and conduct of corporate meetings; qualifications of voters thereat.
86. Changing date of annual corporate meetings.
87. Changing number of trustees.
88. Meetings of trustees.
89. The creation and filling of vacancies among trustees of such churches.
90. Control of trustees by corporate meetings of such churches; salaries of ministers.
91. Trustees of a church in connection with the United Brethren in Christ.
92. Trusts for Shakers and Friends.
93. Conveyance of trust property of Friends.

§ 80. Application of this article.—This article is not applicable to a Baptist church, a Congregational or Independent church, a Protestant Episcopal church, a Roman Catholic church, a Presbyterian church in connection with the general assembly of the Presbyterian church in the United States of America, or a Christian Orthodox Catholic church of the Eastern Confession. No provision of this article is applicable to a Reformed church in America, a true Reformed Dutch church in the United States of America, a Reformed Presbyterian church, or to an Evangelical Lutheran church, incorporated

after October first, eighteen hundred and ninety-five, except as declared to be so applicable by article five of this chapter; this article is applicable to an Evangelical Lutheran church incorporated before October first, eighteen hundred and ninety-five, if the trustees thereof were then elective as such and so long as they continue to be elective as such. Article five of this chapter is applicable to an Evangelical Lutheran church incorporated before October first, eighteen hundred and ninety-five, if its trustees were not then elective as such and so long as its trustees continue not to be elective as such. This article is applicable to churches of all other denominations.

Amended by chap. 621 of 1897.
Amended by chap. 97, L. of 1902. In effect March 6, 1902.

§ 81. **Notice of meeting for incorporation.**—Notice of a meeting for the purpose of incorporating an unincorporated church, to which this article is applicable, shall be given as follows:

The notice shall be in writing, and shall state, in substance, that a meeting of such unincorporated church will be held at its usual place of worship at a specified day and hour, for the purpose of incorporating such church and electing trustees thereof.

The notice must be signed by at least six persons of full age, who are then members in good and regular standing of such church by admission into full communion or membership therewith, in accordance with the rules and regulations of such church, and of the governing ecclesiastical body of the denomination or order, if any, to which the church belongs, or who have statedly worshipped with such church and have regularly contributed to the financial support thereof during the year next prior thereto, or from the time of the formation thereof.

A copy of such notice shall be posted conspicuously on the outside of the main entrance to such place of worship, at least fifteen days before the day so specified for such meeting, and shall be publicly read at each of the two next preceding regular meetings of such unincorporated church for public worship, at least one week apart, at morning service, if such service be held, on Sunday, if Sunday be the day for such regular meetings, by the first named of the following persons who is present thereat, to wit: The minister of such church, the officiating minister thereof, the elders thereof in the order of their age beginning with the oldest, the deacons of the church in the

order of their age beginning with the oldest, any person qualified to sign such notice.

[See form, No. 41.

L. 1813, ch. 60, § 30; R. S., 8th ed., 1884.

L. 1890, ch. 66; R. S., 8th ed. (supp.), 3290.

L. 1858, ch. 803; R. S., 8th ed., 1893.

The requirement of six signers of the notice is new. The contents of notice are more specific; but otherwise there is no substantial change.

Where a society is divided into factions holding services at two places, either faction may incorporate, to the exclusion of the other, on giving the requisite notices, etc., at the places where each faction meets; and the corporation will succeed to the property of the society. A subsequent attempt to incorporate by the other faction, although constituting a majority of the members, will be ineffectual. The Trustees of St. Jacob's, etc., Ch. v. George Bly, et al., 73 N. Y. 323.

A formal dissolution held unnecessary under § 16 of ch. 60, L. 1813, before reincorporation; where a religious corporation has been dissolved through nonuser, or neglect to exercise its powers. First Soc. of M. E. Ch. v. Brownell, 5 Hun, 464. Section 16 has not been re-enacted, but the same rule would probably be applied as to reincorporation under this chapter.

The signers of the notice are required to have the same qualifications as voters at corporate meetings. See §§ 82, 85.]

§ 82. **The meeting for incorporation.**—At the meeting for incorporation held in pursuance of such notice, the following persons, and no others, shall be qualified voters, to wit: All persons of full age, who are then members, in good and regular standing of such church by admission into full communion or membership therewith, in accordance with the rules and regulations thereof, and of the governing ecclesiastical body, if any, of the denomination or order, to which the church belongs, or who have statedly worshipped with such church and have regularly contributed to the financial support thereof during the year next preceding such meeting, or from the time of the formation thereof.

The presence of a majority of such qualified voters, at least six in number, shall be necessary to constitute a quorum of such meeting. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon, a quorum being present.

The first named of the following persons, who is present at such meeting shall preside thereat, to wit: The minister of the church, the officiating minister thereof, the elders thereof in the order of their age, beginning with the oldest, the deacons thereof in the order of their age, beginning with the oldest, any qualified voter elected to preside. The presiding officer of the meeting shall receive the votes, be the judge of the qualifications of voters and declare the result of the votes cast on any matter. The polls of the meeting shall remain open for one hour, and longer, in the discretion of the presiding officer, or if required, by a majority of the voters present.

Such meeting shall decide whether such unincorporated church shall become incorporated. If such decision shall be in favor of incorporation such meeting shall decide upon the name of the proposed corporation, the number of the trustees thereof, which shall be three, six or nine, and shall determine the date, not more than fifteen months thereafter, on which the first annual election of the trustees thereof after such meeting shall be held. Such meeting shall elect from the persons qualified to vote at such meeting, one-third of the number of trustees so decided on who shall hold office until the first annual election of trustees thereafter, one-third of such number of trustees to hold office until the second annual election of trustees thereafter, and one-third of such number of trustees to hold office until the third annual election of trustees thereafter.

[L. 1813, ch. 60, §§ 3, 6; R. S., 8th ed., 1884.
L. 1890, ch. 66; R. S., 8th ed. (supp.), 3290.
L. 1876, ch. 329, §§ 2, 3, 4; R. S., 8th ed., 1910.

The quorum clause is new. One presiding officer for the meeting is substituted for the two provided by present law. The qualification of voters in Baptist churches is not substantially changed. The qualification of voters for other churches generally has remained unchanged since L. 1784, 7th Session, ch. 18, except for the amendment of L. 1867, ch. 656, striking out the word "male;" and by the present law is as follows: "Every person of full age who has statedly worshipped with such church, congregation or society and has formerly been considered as belonging thereto." The indefinite character of this statement was illustrated in People ex rel. Sturges v. Keese, 27 Hun, 484. The change proposed has the advantage of a uniform statement for all churches, and will tend to diminish doubt and controversy. By present law, trustees are

elected by plurality vote. This section of the revision requires a majority. Original election of trustees for one, two and three years is substituted for original election of whole number and classification by lot. The requirement that trustees be qualified voters is new as to all churches except Baptist. The provision that the number of trustees be three, six or nine, is substituted for "not less than three nor more than nine," to accord with the evident intention of the present law, which provides that the term of one-third shall expire each year. The foregoing is the revisers' note, contained in their report to legislature of 1895.

If at the meeting for incorporation, the officers directed by the statute to preside are not present, a member of the congregation shall prescribe. Lynch v. Pfeiffer, 110 N. Y. 33.

The members of the congregation, and not merely the members of the Christian church connected with such congregation, are authorized to incorporate, and elect trustees, although they may have been excommunicated by the church authorities. Baptist Church in Hartford v. Witherell, 3 Paige, 296; and cases cited under § 84, post.]

§ 83. **The certificate of incorporatio** —The presiding officer of such meeting and at least two other persons present and voting thereat, shall execute and acknowledge a certificate of incorporation, setting forth the matters so determined at such meeting, the trustees elected thereat and the terms of office for which they were respectively elected and the county, town, city or village in which its principal place of worship is or is intended to be located. On filing such certificate the members of such church and the persons qualified to vote at such meeting and who shall thereafter, from time to time, be qualified voters, at the corporate meetings thereof, shall be a corporation by the name stated in such certificate, and the persons therein stated to be elected trustees of such church shall be the trustees thereof, for the terms for which they were respectively so elected.

[See form, No. 42.

L. 1813, ch. 60, § 3; R. S., 8th ed., 1884.

L. 1890, ch. 66; R. S., 8th ed. (supp.), 3290.

L. 1876, ch. 329, § 5; R. S., 8th ed., 1911.

The qualified voters and members are expressly constituted the corporation. The language of the present law would seem to make the corporation consist of the trustees only; but the present law has been construed to make the members the corporation. See Robertson v. Bullions, 11 N. Y. 243, and Cram v. Evan. Luth. Soc., 36 N. Y. 161, and cases cited under § 2.

If trustees are named it will be considered a compliance with the statute that number be stated (Betts v. Betts, 4 Abb. N. C. 317), but it is the better practice to state the number.

As to place of filing certificate, see § 3 and cases cited.

The general qualification of incorporators, the naming of the corporation and other general regulations as to certificates, are provided by general corporation law, §§ 3-9.

The persons before whom acknowledgments may be taken are specified in statutory construction law, § 15. The certificate must contain the names of the trustees and the corporate name, but a defect in the record can not be taken advantage of by a person who has contracted with the corporation. M. E., etc., Church v. Pickett, 19 N. Y. 482.

A certificate reciting that the meeting for incorporation was composed of the male members of the congregation is valid, although female members were entitled to vote. If they voluntarily absented themselves the male members had the right to constitute the meeting. Lynch v. Pfeiffer, 110 N. Y. 33.

A compliance with the statute will be presumed from long user under it. Saints' Church v. Lovett, 1 Hall's Superior Ct. Rep. 191. A certified copy of the certificate is evidence equally with the original Code of Civil Procedure, § 933.]

§ 84. Time, place and notice of corporate meetings.— The annual corporate meeting of every incorporated church to which this article is applicable, shall be held at the time and place fixed by or in pursuance of law therefor, if such time and place be so fixed, and otherwise, at a time and place to be fixed by its trustees. A special corporate meeting of any such church may be called by the board of trustees thereof, on its own motion or on the written request of at least ten qualified voters of such church. The trustees shall cause notice of the time and place of its annual corporate meeting, therein specifying the names of any trustees, whose successors are to be elected thereat, and, if a special meeting, specifying the business to be transacted thereat, to be given at a regular meeting of the church for public worship, at morning service, if such service be held, on each of the two successive Sundays next preceding such meeting, if Sunday be the regular day for such public worship, and public worship be had thereon, or otherwise at a regular meeting of such church for public worship on each of two days, at least one week apart, next preceding such meeting, or if no such public worship be held during such period, by conspicuously posting such notice, in writing,

upon the outer entrance to the principal place of worship of such church. Such notice shall be given by the minister of the church, if there be one, or if not, by the officiating minister thereof, if there be one, or if not, or if any such minister refuse to give such notice, by any officer of such church. But a special corporate meeting of an incorporated Presbyterian church, to elect a pastor of such church or to take action in reference to the dissolution of the relations of the pastor and the church, may be called only by the session of such church. They may call such meeting whenever they deem it advisable to do so, or upon the request to them, by petition, of a majority of the qualified voters of such corporation, they must call such meeting. They shall give notice of such meeting in either case, in the manner in this section provided in a notice of a special meeting.

[See form, No. 43.

L. 1813, ch. 60, §§ 6, 9; R. S., 8th ed., 1886.

L. 1826, ch. 47, § 1; R. S., 8th ed., 1892.

L. 1875, ch. 79, § 1; R. S., 8th ed., 1903.

L. 1876, ch. 329, § 3; R. S., 8th ed., 1910.

The provisions of the present law as to notice of meeting are amplified but not substantially changed. The provision, that trustees shall give notice of approaching expiration of term, is omitted here as unnecessary.

The provision requiring a special corporate meeting of Pres. Ch. to elect pastor, etc., to be called by session only, is new in the statute.

The rector of an incorporated church may be mandamused to give notice of the annual election. McLaurey v. Hartt (Sp. T.), 11 N. Y. Supp.

A presiding officer prevented by violence from discharging his duties at a regular meeting may retire, with those who choose to follow him and conduct the meeting elsewhere. Field v. Field, 9 Wend. 394.]

§ 85. Organization and conduct of corporate meetings; qualifications of voters thereat.— At a corporate meeting of an incorporated church to which this article is applicable the following persons and no others, shall be qualified voters, to wit: All persons of full age, who are then members in good and regular standing of such church by admission into full communion of membership therewith, in accordance with the rules and regulations thereof, and of the governing ecclesiastical body, if any, of the denomination or order to which the church belongs, or who have been stated attendants on divine worship in such church and have regularly contributed to the financial support thereof during the year next preceding such meeting; except that at a corporate meeting of any Methodist Episcopal church in the city of Brooklyn, only persons who shall have then been members thereof for at least one year prior thereto shall be qualified

voters; and any incorporated church in connection with the congregational denomination may at any annual corporate meeting thereof, if notice of the intention so to do has been given with the notice of such meeting, determine that thereafter only members of such church shall be qualified voters at corporate meetings thereof. The presence at such meetings of at least six persons qualified to vote thereat shall be necessary to constitute a quorum. The action of the meeting upon any matter or question shall be decided by a majority of the qualified voters voting thereon, a quorum being present. The first named of the following persons who is present at such meeting, shall preside thereat, to wit: The minister of such church, the officiating minister thereof; the officers thereof in the order of their age beginning with the oldest, any qualified voters elected therefor at the meeting. The presiding officer of the meeting shall receive the votes, be the judge of the qualifications of voters and declare the result of the votes cast on any matter. The polls of an annual corporate meeting shall continue open for one hour, and longer in the discretion of the presiding officer, or if required, by a majority of the qualified voters present. At each annual corporate meeting, successors to those trustees whose terms of office then expire, shall be elected from the qualified voters by ballot, for a term of three years thereafter; provided, however, that the Methodist Episcopal church in the city of Brooklyn which is now or hereafter may become a beneficiary of the Brooklyn Church society by receiving from said society contributions to its current income, or by loan or loans, gift or gifts from the same, may elect to fill any vacancy or vacancies existing in its board of trustees by expiration of term, or for any other cause, at any corporate meeting legally called, not to exceed at any time three members of said board of trustees, who shall have been nominated to such positions by the Brooklyn Church society, without regard to any qualifications for trustees required by this act, and such trustees or their successors, nominated and elected in the same manner, shall continue in office so long as said church shall be a beneficiary of said society. Notice of expiration of term of said trustees shall be given by the said church to the said society not less than one month before said expiration of term.

Amended by chap. 969, L. 1896. In effect May 28, 1896.

[L. 1813, ch. 60, §§ 3, 6, 7, 14; R. S., 8th ed., 1884.
L. 1890, ch. 66; R. S., 8th ed. (supp.), 3290.
L. 1876, ch. 329, § 4; R. S., 8th ed., 1911.

The provisions as to certificate and record of meeting are omitted, as any church may be safely trusted to take care of its own records without statutory direction. A single presiding officer is substituted for two as by present law. As to changes in qualifications of voters see note to § 82. The exception as to Methodist Episcopal churches in Brooklyn is in accordance with L. 1813, ch. 60, § 7, as am. by L. 1875, ch. 597.]

Voters.—Subject to the exception in this section as to Methodist Episcopal churches in the city of Brooklyn and Congregational churches generally, two classes of qualified voters are recognized by § 85, viz.: (1) Members of the church and (2) persons who have been stated attendants on divine worship and have regularly contributed to the financial support of the church for the preceding year.

A member's right to vote depends upon his connection with the particular society, and not with the denomination at large. Watkins v. Wilcox, 4 Hun, 220.

The members of the church have no greater rights as corporators than the members of the congregation who steadily attend divine worship with them and contribute to the support of the church. Baptist Church in Hartford v. Witherell, 3 Paige, 296.

Persons otherwise qualified do not lose their right to vote by reason of having renounced the doctrine of the ecclesiastical government of the church. Petty v. Tooker, 21 N. Y. 267.

A religious corporation may, under its rules, exclude a member from spiritual privileges, but can not deprive him of his statutory rights as an incorporator. People v. German Church, 53 N. Y. 103, reversing 6 Lans. 172; People v. Phillips, 1 Den. 388.

Stated attendance means the personal presence of the voter at the religious meetings of the society. The regular attendance of members of his family is not sufficient. Casual attendance and regular contributions will not constitute a person a voter. People v. Tuthill, 31 N. Y. 550.

Contribution and support must be according to the usages and customs of the church, which implies that contribution must be of a vital and substantial character. Id.

Contributions to the support of a charity connected with the church, or to a mission school, are not sufficient. Id.

A court of equity has no power to require qualifications in electors, other than those prescribed by the statutes. Robertson v. Bullions, 11 N. Y. 243.

A member can not vote by proxy at meetings of a religious corporation. Gen. Corp. L., § 21.

The presiding officer may exact an oath of every person offering to vote. Gen. Corp. L., § 22.

Legality of election.—The question of the legality of votes cast at a corporate election can not be determined by the inspectors (or presiding officer acting as such), after they have already made a certificate declaring certain persons elected. Hart v. Harvey, 32 Barb. 55.

After the ballots are received, the right of the inspectors (or presiding officer acting as such) to inquire into their legality ceases. They must return the vote as cast. People v. White, 11 Abb. Pr. 168; Hart v. Harvey, 32 Barb. 55.

An election of the trustees is valid, although the notice required by the statute was not given, if the election was fairly conducted and there is no complaint of want of notice. People v. Peck, 11 Wend. 604.

A certificate of election is presumptive evidence of election and can only be overcome by proof that the person holding it received less than a majority of the votes cast, unless the certificate shows upon its face that the person holding it was not legally elected. People v. Lacoste, 37 N. Y. 192. Hart v. Harvey, 32 Barb. (Sp. T.) 55.

§ 86. **Changing date of annual corporate meetings.**—An annual corporate meeting of an incorporated church to which this article is applicable, may change the date of its annual meeting thereafter. If such date shall next thereafter occur less than six months after the annual meeting at which such change is made, the next annual meeting shall be held one year from such next recurring date. For the purpose of determining the terms of office of trustees, the time between the annual meeting at which such change is made and the next annual meeting thereafter shall be reckoned as one year.

[L. 1826, ch. 47, § 3; R. S., 8th ed., 1893.
L. 1875, ch. 79, § 1; R. S., 8th ed., 1903.
Without change of substance.]

§ 87. **Changing number of trustees.**—An incorporated church to which this article is applicable, may, at an annual corporate meeting, change the number of its trustees to three, six or nine, or classify them so that the terms of one-third expire each year. No such change shall affect the terms of the trustees then in office, and if the change reduces the number of trustees, it shall not take effect until the number of trustees whose terms of office continue for one or more years after an annual election, is less than the number determined upon. Whenever the number of trustees so holding over is less than the number so determined on, trustees shall be elected in addition to those so holding over, sufficient to make the number of trustees for the ensuing year equal to the number so determined on. The trustees so elected up to and including one-third of the number so determined on, shall be elected for three years, the remainder up to and includ-

ing one-third of the number so determined on for two years and the remainder for one year.

[L. 1813, ch. 60, § 9; R. S., 8th ed., 1887.
All after first sentence is new.]

§ 88. **Meetings of trustees.**—Two of the trustees of an incorporated church, to which this article is applicable, may call a meeting of such trustees, by giving at least twenty-four hours' notice thereof personally or by mail to the other trustees A majority of the trustees lawfully convened shall constitute a quorum for the transaction of business. In case of a tie vote at a meeting of the trustees, the presiding officer of such meeting shall, notwithstanding he has voted once, have an additional casting vote.

[L. 1813, ch. 60, § 5; R. S., 8th ed., 1886.
L. 1876, ch. 329, § 5; R. S., 8th ed., 1911.
Without change of substance. See Gen. Corp. L., § 29, for quorum provision, etc.]

§ 89. **The creation and filling of vacancies among trustees of such churches.**—If any trustee of an incorporated church to which this article is applicable, declines to act, resigns or dies, or having been a member of such church, ceases to be such member, or not having been a member of such church, ceases to be a qualified voter at a corporate meeting thereof, his office shall be vacant, and such vacancy may be filled by the remaining trustees until the next annual corporate meeting of such church, at which meeting the vacancy shall be filled for the unexpired term.

[L. 1813, ch. 60, § 6; R. S., 8th ed., 1886.
L. 1875, ch. 79, § 2; R. S., 8th ed., 1903.
L. 1876, ch. 329, § 7; R. S., 8th ed., 1911.
No substantial change.]

§ 90. **Control of trustees by corporate meetings of such churches; salaries of ministers.**—A corporate meeting of an incorporated church, whose trustees are elective as such, may give directions, not inconsistent with law, as to the manner in which any of the temporal affairs of the church shall be admin-

istered by the trustees thereof; and such directions shall be followed by the trustees. The trustees of an incorporated church to which this article is applicable, shall have no power to settle or remove or fix the salary of the minister, or without the consent of a corporate meeting, to incur debts beyond what is necessary for the care of the property of the corporation; or to fix or change the time, nature or order of the public or social worship of such church, except when such trustees are also the spiritual officers of such church.

[L. 1813, ch. 60, § 8; R. S., 8th ed., 1887.
L. 1876, ch. 329, § 6; R. S., 8th ed., 1911.
The express prohibition against settling or removing the minister, now applicable to Baptist churches only, is extended.
Section 11 of general corporation law provides that by-laws adopted by the corporation shall control the action of its trustees.
For powers of trustees in relation to the property of the corporation see §§ 4, 5 and 11, ante, and notes.
For powers of trustees in relation to minister, see note to § 5 under head "Minister."]

§ 91. **Trustees of a church in connection with the United Brethren in Christ.**—If any church connected with the denomination known as the United Brethren in Christ shall neglect or omit to elect trustees at any annual election at which trustees should have been elected, the quarterly conference of the circuit, station or mission of such denomination may elect such trustees for full terms, or to fill vacancies, in accordance with the rules and usages of such denomination.

[L. 1826, ch. 47, § 1; R. S., 8th ed., 1892.
Without change of substance.]

§ 92. **Trusts for Shakers and Friends.**—All deeds or declarations of trust of real or personal property, executed and delivered before January first, eighteen hundred and thirty, or since May fifth, eighteen hundred and thirty-nine, to any person in trust for any united society of Shakers, or heretofore executed and delivered, shall be vested in the trustees* the legal estates and religious society of Friends, shall be valid. Trusts of real or personal property, for the benefit and use of the members of any

*So in the original.

united society of Shakers, or of any meeting of the religious society of Friends, may hereafter be created, according to the religious constitution of such society of Shakers, or the regulations and rules of discipline of such society of Friends. Such deeds or declarations of trust, heretofore or hereafter executed and delivered, shall vest in the trustees the legal estates and interests purported to be conveyed or declared thereby, to and for the uses and purposes declared therein; and such legal estates and trusts, and all legal authority with which the original trustees were vested by virtue of their appointment and conferred powers, shall descend to their successors in office or trust, who may be chosen in conformity to the constitution of such society, or the directions of such meeting. This section does not impair or diminish the rights of any person, meeting or association claiming to be a meeting of the religious society of Friends, which such person, meeting or association claiming to be a meeting, had to any real or personal property held in trust for the use and benefit of any meeting of such society, before the division of such society which took place at the annual meeting held in the city of New York in May, eighteen hundred and twenty-eight. No society of Shakers, or meeting of Friends, shall become beneficially interested in real or personal property, the clear annual value or income of which exceeds twenty-five thousand dollars. No person shall be a trustee at the same time, of more than one society of Shakers or meeting of Friends. A society of Shakers includes all persons of the religious belief of the people called Shakers, resident within the same county.

[L. 1839, ch. 174; R. S., 8th ed., 2441.

L. 1839, ch. 184; R. S., 8th ed., 2441.

Without change in substance.

The Shaker community may be sued through its trustees, designating the defendant as "trustees of the mutual society called Shakers." The trustees are to be regarded as a corporate body holding property in trust for the society. White v. Miller, 71 N. Y. 118.]

§ 93. **Conveyance of trust property of Friends.**—The trustee or trustees, or survivor of any trustees, of any meeting of the religious society of Friends, appointed pursuant to the last preceding section, may sell, convey and grant, or demise any or all

of the trust property described in said trust deed or declaration of trust, to any person absolutely or in trust for such meeting, whenever any meeting of said society by resolution so directs. Any conveyance of real estate or property so held in trust by a meeting of the religious society of Friends, which is hereafter made in pursuance of a resolution of such meeting as provided herein, shall be as valid and effectual for the conveyance of the title of any real estate so held in trust, as if the heirs of any trustee who has died prior to the passage of such resolution had joined in the execution of such conveyance or demise. Any instrument for the sale or demise of such property shall embody such resolution, and be executed by such trustee or trustees; and in such acknowledgment such trustee or trustees shall make an affidavit that the person or persons executing such conveyance or demise are the trustee or trustees of the trust property, and that the resolution embodied in such conveyance or demise was duly passed by such meeting. Such affidavit shall be prima facie evidence of the facts therein stated.

[L. 1839, ch. 184, § 4; R. S., 8th ed., 2442.
Without change of substance.]

§ 94. Nothing contained in this act shall prevent the qualified voters at any meeting held pursuant to this act or in this act described, from choosing a person to preside at any such meeting, other than the person or officer designated in this act to preside thereat, and when such other person shall be chosen he shall exercise all the powers in this act conferred upon the presiding officer of such meeting.

Added by ch. 144 of 1897.

This article changed from Article VII to Article VIII.

ARTICLE IX.

Special Provisions for the Incorporation and Government of Two or More Unincorporated Churches as a Union Church.

Section 100. Joint meeting for the purposes of incorporation.
101. Government of incorporated union churches.

Section 100. **Joint meeting for the purposes of incorporation.**—Two or more unincorporated churches, which separately agree on a plan of union and determine to meet together for the purpose of being incorporated as a union church, may be incorporated as a union church in pursuance of the provisions of the next preceding article, and thereafter such union church shall be governed by the general provisions of such article, as near as may be, except as otherwise provided in this article. A notice of such joint meeting shall be given to the congregation of each

church, in pursuance of the provisions of the next preceding article of this chapter, relating to notice of meeting for incorporations in every respect, as if it were a notice of a meeting for the separate incorporation of such church under such article, except that the notice shall state in substance that a joint meeting of such incorporated churches, which shall be specified in the notice, will be held for the purpose of incorporating such churches as a union church, and electing trustees thereof at a time and place specified in the notice, which place may be the usual place of worship of either of such churches or any other reasonably convenient place. Such notice must be signed by at least six persons from each of such churches who would be authorized to sign a notice for the meeting of each church, respectively, for the purpose of incorporating it under such article.

The provisions of the next preceding article of this chapter shall be applicable to the organization and conduct of such meeting, the matters to be determined upon and the certificate of incorporation to be executed and filed accordingly, except that the presiding officer of such joint meeting shall be the oldest person present at such meeting who would be entitled to preside at a meeting of either of such churches singly for the purposes of incorporation in pursuance of such article. All persons who would be qualified to vote at such meeting of either of such churches held singly, shall be qualified voters at such joint meeting, and the number of trustees of the union church after incorporation, to be selected from each such church, may be agreed on by such unincorporated churches, and the trustees shall be selected by each of such churches accordingly.

The certificate of incorporation shall set forth the plan of union agreed on and the number of trustees of the incorporated union church to be selected by each unincorporated church.

[See form, No. 44.

L. 1881, ch. 327, & 1; R. S., 8th ed., 1911, amplified without material change of substance.

See notes to sections of preceding article.]

§ 101. Government of incorporated union churches.—Any union church or society having a common place of worship or holding property belonging jointly to the several societies com-

posing the same, but the sole right of occupancy of which is reserved to each of them in proportion to their interest in such property, or the money originally paid therefor by each, or in accordance with their plan of union agreed on, may, if any one or more of the churches or societies comprising such union church or society has ceased to exist, on the request of such remaining churches or society, redistribute and divide the time of occupancy among such remaining societies in proportion to their contributions to such property respectively, or in accordance with a new plan of union agreed on by them. Such redistribution shall be made by the trustees of said union church or society on written notice to the societies which it is alleged have ceased to exist; but no such society shall be deemed to have ceased to exist unless it has failed or neglected for a period of five consecutive years next preceding such request for redistribution, to hold meetings and have a clerk or secretary, and keep a list or registry of its members, or to have preaching, prayer or conference meetings, or other religious services in keeping with the usages of the denomination to which it belongs.

Any one of the societies composing a union church or society, which shall have built a church edifice in the same village or neighborhood in which it holds its religious services, shall not thereby lose or forfeit in any way any of its rights or privileges in such union society, and the maintaining of divine worship, or contributing to its support in its own building, shall be regarded the same as if it held its meetings in the church building of such union societies. Any notice for the election of trustees of the union society or for any other purpose which the law requires to be read or given at the time of divine service, may be read or given in the church edifice so built by any one of such societies, if at the time religious services are not held in the church edifice of such union society. But such notice must be posted on the outer door of such union church edifice at least fifteen days before the meeting. If any society composing any such church union or society has a greater interest in the occupancy of the church building than others, unless the several churches composing the union church or society have agreed otherwise, the number of trustees shall be odd, and the trustees shall

be elected from such societies in proportion to their respective interests in the union church or society, as nearly as may be. Any society composing such union church or society, which has built for itself a church edifice and become incorporated, may sell its interest and right of occupancy in such union society, and convey the same, when authorized so to do by a two-thirds vote of the voters thereof qualified to vote for union trustees, at a special meeting called for that purpose. The proceeds of such sale shall be used for the benefit of its church property.

[L. 1881, ch. 327, §§ 1-6; R. S., 8th ed., 1911,
Without change of substance.]
This article changed from Article VIII to Article IX by chap. 97 of 1902.

ARTICLE X.

Laws Repealed; When to Take Effect.

Section 110. Laws repealed.
111. When to take effect.

§ 110. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

[As to effect of repeal, see general corporation law, §§ 35-36; statutory construction law, §§ 31-33; and notes to § 2 of religious corporation law.]
This article changed from Article IX to Article X by chap. 97 of 1902.

§ 111. When to take effect.—This chapter shall take effect October 1, 1895.

Schedule of Laws Repealed.

Revised laws of 1813, ch. 60, entitled "An act to provide for the incorporation of religious societies." All.

Laws of—	Chapter.	Sections.
1814	1	6.
1819	33	All.
1822	187	All.
1825	303	All.
1826	47	All.
1835	90	8, 9, 10, 11.
1839	174	All.

Schedule of Laws Repealed — (Continued).

Laws of—	Chapter.	Sections.
1839	184	All.
1842	153	All.
1842	215	All.
1844	158	All.
1849	373	All.
1850	122	All.
1852	203	All.
1853	323	All.
1860	235	All.
1863	45	All.
1866	414	All.
1866	447	All.
1867	265	All.
1867	656	All.
1867	657	All.
1868	784	All.
1868	803	All.
1869	171	All.
1871	12	All.
1871	776	All.
1874	26	All.
1874	37	All.
1875	79	All.
1875	209	All.
1875	325	All.
1875	354	All.
1875	381	All.
1875	408	All.
1875	443	All.
1875	597	All.
1876	110	All.
1876	176	All.
1876	329	All.
1877	177	All.
1878	209	All.
1878	349	All.

Schedule of Laws Repealed — (Continued).

Laws of —	Chapter.	Sections.
1879	117	All.
1879	136	All.
1879	463	All.
1880	55	All.
1880	167	All.
1880	337	All.
1881	327	All.
1881	501	All.
1882	23	All.
1883	501	All.
1884	198	All.
1885	431	All.
1886	16	All.
1886	98	All.
1886	209	All.
1887	100	All.
1887	406	All.
1887	600	All.
1888	459	All.
1890	66	All.
1890	424	All.
1894	72	All.

LAWS RELATING TO RELIGIOUS CORPORATIONS.

L. 1854, Chapter 218—An act for the incorporation of societies to establish free churches.

Section 1. Corporation, how formed.—Any seven or more persons of full age, citizens of the United States, and a majority of them being residents of this state, who shall associate themselves for the purpose of founding and continuing one or more free churches, may make, sign, and acknowledge, before any officer authorized to take the acknowledgment of deeds of land to be recorded in this state, and may file in the office of the secretary of state, and also of the clerk of the county in which any such church is to be established, a certificate in writing, in which shall be stated the name or title by which such society shall be known in the law, the purpose of its organization, and the names of seven trustees, of whom not less than five shall be persons who are not ministers of the gospel or priests of any denomination, to manage the same; but such certificate shall not be filed, unless with the written consent and approbation of a justice of the supreme court of the district in which any such church shall be intended to be established, or in the city of New York of a judge of the superior court of the said city, to be indorsed on such certificate.

§ 2. Rights, powers and limitations.—Upon the filing of such certificate, the persons named therein as trustees, and their successors, being citizens of the United States and residents of this state, shall be a body politic and corporate, with all the rights, powers and duties, and subject to all the restrictions and obligations and other provisions, so far as the same may be applicable and consistent with this act, specified and contained in the act

entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April 12, 1848, and the act amending the same, passed April 7, 1849, except that the limitation in the first of the said acts of the value of the real estate that may be held by any society in the city or county of New York, incorporated under this act, shall not be applicable to any church edifice erected or owned by such society, or the lot of ground on which the same may be built; and except that the provision in the first of the said acts, in relation to the personal liability of the trustees, shall be applicable only to the trustees who shall have assented to the creation of any debt.

§ 3. **Vacancies.**—Any vacancies occurring in the said board of trustees shall be supplied by the remaining trustees at any legal meeting of the members; but there shall always be at least five members of the board who are not ministers of the gospel or priests of any denomination.

§ 4. **Seats and pews to be free.**—The seats and pews in every church, building or edifice, owned or occupied by any corporation organized under this act, shall be forever free for the occupation and use, during public worship, of all persons choosing to occupy the same, and conducting themselves with propriety, and no rent, charge or exaction shall ever be made or demanded for such occupation or use; nor shall any real estate belonging to any such corporation be sold or mortgaged by the trustees thereof, unless by the direction of the supreme court, to be given in the same manner and in the like cases as provided by law in relation to religious incorporations.

L. 1872, Chapter 424—An act to provide for the dissolution of religious societies, except in the city and county of New York, and for the sale and disposition of the proceeds of the property of such socities.

Section 1. **When and how religious societies may be dissolved and property sold; proceeds, how disposed of.**—Whenever any religious society incorporated by law shall cease to act in its corporate capacity and keep up the religious services, it

shall be lawful for the supreme court of this state, upon the application of a majority of the trustees thereof incorporated by law, except in the city and county of New York, in case said court shall deem it proper so to do, to order and decree a dissolution of such religious society, and for that purpose to order and direct a sale and conveyance of any and all property belonging to such society, and after providing for the ascertaining and payment of the debts of such society, and the necessary costs and expenses of such sale and proceedings for dissolution, so far as the proceeds of such sale shall be sufficient to pay the same; such court may order and direct any surplus of such proceeds remaining after paying such debts, costs and expenses, to be devoted and applied to any such religious, benevolent, or charitable objects or purposes as the said trustees may indicate by their petition and the said court may approve.

§ 2. Petition, what to contain.—Such application to the said court shall be made by petition, duly verified by said trustees, which petition shall state the particular reason or causes why such sale and dissolution are sought; the situation, condition, and estimated value of the property of said society or corporation, and the particular object or purposes to which it is proposed to devote any surplus of the proceeds of such property; and such petition shall, in all cases, be accompanied with proof that notice of the time and place of such intended application to said court, has been duly published once in each week for at least four weeks successively, next preceding such application, in a newspaper published in the county where such society is located.

§ 3. When members may make the application.—In case there shall be no trustees of such religious society residing in the county in which such society is located, such application may be made, and such proceedings taken, by a majority of the members of such religious society residing in such county.

[No meeting of the board of trustees of a religious society is necessary to authorize the application of a majority of the trustees for the dissolution of a society under chapter 424 of the Laws of 1872, nor is it

essential that there should be a meeting of the society to authorize such an application, except to show the court that a dissolution is favored by a majority. It is no objection to an order made by the court for a dissolution of a religious corporation that it is contrary to the discipline of the church, if it is authorized by statute. Matter of Third M. E. Church, 67 Hun, 86.

Upon dissolution, the surplus funds arising from legacies, etc., should be disposed of as the court directs, carrying out as far as possible any trusts attached thereto. Matter of Orthodox Congregational Ch., 6 Abb. N. C. 398.

PROVISIONS OF PENAL CODE,

Relating to Religious Corporations, and the Observance of Sunday.

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§ 259. **The Sabbath.**—The first day of the week being by general consent set apart for rest and religious uses, the law prohibits the doing on that day of certain acts hereinafter specified, which are serious interruptions of the repose and religious liberty of the community.

§ 260. Sabbath breaking.—A violation of the foregoing prohibition is Sabbath breaking.

§ 263. Labor prohibited.—All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

§ 264. Persons observing another day as a Sabbath.—It is a sufficient defense to a prosecution for work or labor on the first day of the week, that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

§ 265. Public sports.—All shooting, hunting, fishing, playing, horse-racing, gaming or other public sport, exercises or shows, upon the first day of the week, and all noise disturbing the peace of the day, are prohibited.

§ 266. Trades, manufactures, and mechanical employments.—All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except

that when the same are works of necessity, they may be performed on that day, in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

§ 267. Public traffic.—All manner of public selling or offering for sale of any property upon Sunday is prohibited, except that articles of food may be sold and supplied at any time before ten o'clock in the morning, and except also that meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; and prepared tobacco, milk, ice and soda water, in places other than where spirituous or malt liquors or wines are kept or offered for sale, and fruit, flowers, confectionery, newspapers, drugs, medicines and surgical appliances may be sold in a quiet and orderly manner at any time of the day.

Amended by chap. 648, L. 1896. In effect May 14 1896.

§ 268. Serving process.—All service of legal process of any kind whatever, upon the first day of the week, is prohibited, except in cases of breach of the peace, or apprehended breach of the peace, or when sued out for the apprehension of a person charged with crime, or except where such service is specially authorized by statute. Service of any process upon said day except as herein permitted, is absolutely void for any and every purpose whatever.

§ 269. Sabbath breaking.—Sabbath breaking is a misdemeanor, punishable by a fine not less than five dollars and not more than ten dollars, or by imprisonment in a county jail not exceeding five days, or by both, but for a second or other offense, where the party shall have been previously convicted, it shall be punishable by a fine not less than ten dollars and not more than twenty dollars, and by imprisonment in a county jail not less than five nor more than twenty days.

§ 270. Forfeiture of commodities exposed for sale.—In addition to the penalty imposed by the last section, all property and commodities exposed for sale on the first day of the week in violation of the provisions of this chapter shall be forfeited.

Upon conviction of the offender by a justice of the peace of a county, or by any police justice or magistrate, or by a mayor, recorder or alderman of a city, such officer shall issue a warrant for the seizure of the forfeited articles, which, when seized, shall be sold on one day's notice, and the proceeds paid to the overseers of the poor for the use of the poor, of the town or city.

§ 271. Remedy for maliciously serving process.—Whoever maliciously procures any process in a civil action to be served on Saturday, upon any person who keeps Saturday as holy time, and does not labor on that day, or serves upon him any process returnable on that day, or maliciously procures any civil action to which such person is a party to be adjourned to that day for trial, is guilty of a misdemeanor.

§ 272. Compelling adoption of a form of belief.—An attempt by means of threats or violence, to compel any person to adopt, practice or profess a particular form of religious belief, is a misdemeanor.

§ 273. Preventing performance of religious act.—A person who willfully prevents by threats or violence another person from performing any lawful act enjoined upon or recommended to such person by the religion which he professes, is guilty of a misdemeanor.

§ 274. Disturbing religious meetings.—A person who willfully disturbs, interrupts or disquiets any assemblage of people met for religious worship, by any of the acts enumerated in the next section, is guilty of a misdemeanor.

[See notes at end of penal provisions.]

§ 275, Definition of the offense.—The following acts, or any of them, constitute disturbance of a religious meeting:

1. Uttering any profane discourse, committing any rude or indecent act, or making any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting;

2. Engaging in, or promoting, within two miles of the place where a religious meeting is held, any racing of animals or gam-

ing of any description; or elsewhere than in a city or village keeping open any huckster shop, inn, store or grocery, in any other place than that in which such business shall have usually been carried on; or elsewhere than in a city exhibiting within the distance aforesaid any shows or plays, unless the same shall have been duly licensed by the proper authorities;

3. Obstructing in any manner, without authority of law, within the like distance, free passage along a highway to the place of such meeting.

§ 276. **Processions and parades on Sunday.**—All processions and parades on Sunday in any city, excepting only funeral processions for the actual burial of the dead, and processions to and from a place of worship in connection with a religious service there celebrated, are forbidden; and in such excepted cases there shall be no music, fireworks, discharge of cannon or firearms, or other disturbing noise. At a military funeral, and at the burial of a national guardsman, or of a deceased member of an association of veteran soldiers, or of a disbanded militia regiment, or of a secret fraternal society, music may be played while escorting the body, but not within one block of a place of worship where service is then celebrated. A person willfully violating any provision of this section is punishable by fine not exceeding twenty dollars or imprisonment not exceeding ten days, or by both. (Thus amended, L. 1895, ch. 778.)

§ 277. **Theatrical and other performances.**—The performance of any tragedy, comedy, opera, ballet, farce, negro minstrelsy, negro or other dancing, wrestling, boxing with or without gloves, sparring contest, trial of strength, or any part or parts therein, or any circus, equestrian or dramatic performance or exercise or any performance or exercise of jugglers, acrobats, club performances or rope dancers on the first day of the week is forbidden; and every person aiding in such exhibition, performance or exercise by advertisement, posting or otherwise, and every owner or lessee of any garden, building or other room,

place or structure, who leases or lets the same for the purpose of any such exhibition, performance or exercise, or who assents to the use of the same, for any such purpose, if it be so used, is guilty of a misdemeanor. In addition to the punishment therefor provided by statute, every person violating this section is subject to a penalty of five hundred dollars, which penalty "The Society for the Reformation of Juvenile Delinquents" in the city of New York, for the use of that society, and the overseers of the poor in any other city or town, for the use of the poor, are authorized in the name of the people of this State, to recover. Besides this penalty, every such exhibition, performance or exercise, of itself, annuls any license which may have been previously obtained by the manager, superintendent, agent, owner or lessee, using or letting such building, garden, room, place or other structure, or consenting to such exhibition, performance or exercise.

§ 650. **Property in house of worship, etc.**— A person, who willfully and without any authority, breaks, defaces or otherwise injures any house of religious worship, or any part thereof, or any appurtenance thereto, or any book, furniture, ornament, musical instrument, article of silver or plated ware, or other chattel kept therein for use in connection with religious worship, is guilty of felony.

Any person, including a member or pewholder, disturbing a religious meeting may be removed therefrom by the application of force sufficient for that purpose. It is not necessary that the disturbance should be willful. Wall v. Lee, 34 N. Y. 141.

But a regulation that a person shall not go out during service is a restraint on personal liberty, and an action for assault may be maintained against the officer who attempts to enforce it. People v. Brown, 1 Wheeler's Cr. Ca. 124.

An action may be brought by the religious corporation against a railroad company for a nuisance, in running cars and engines, ringing bells, etc., in the vicinity of the meeting-house, which so annoy and molest the congregation worshipping as greatly to depreciate the value of the house as a place of worship. First Baptist Ch. v. Schenectady, etc., R. R., 5 Barb. 79. But in First Baptist Ch. v. Utica, etc., R. R. Co., 6 Barb. 313; held, that the trustees being owners of the building could not bring an action for the same cause; that the damages to the property are too remote.

L. 1895, Chapter 823 — An act to regulate barbering on Sunday.

Section 1. Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber on the first day of the week, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five dollars; and upon a second conviction for a like offense shall be fined not less than ten dollars and not more than twenty-five dollars, or be imprisoned in the county jail for a period of not less than ten days, nor more than twenty-five days, or be punishable by both such fine and imprisonment at the discretion of the court or magistrate; provided, that in the city of New York, and the village of Saratoga Springs, barber shops or other places where a barber is engaged in shaving, hair cutting or other work of a barber, may be kept open, and the work of a barber may be performed therein until one o'clock of the afternoon of the first day of the week.

§ 2. This act shall take effect on the first day of June, eighteen hundred and ninety-five.

APPENDIX TO THE RELIGIOUS CORPORATIONS LAW

CONTAINING THE

LAWS REPEALED THEREBY.

(Laws 1813, ch. 60; R. S., 8th ed., 1881.)

Section 1. (As am. by L. 1868, chap. 803) It shall be lawful for not less than six male persons, of full age, belonging to any church or congregation in communion with the Protestant Episcopal church in this State, not already incorporated, to meet at any time at the usual place of public worship of such church or congregation, for the purpose of incorporating themselves under this act.

[Section 30 of revision, without change of substance.]

2. A notice of such meeting, specifying its object, and the time and place thereof, shall be publicly read in the time of morning service, on two Sundays next previous thereto, by the rector or officiating minister, or, if there be none, by any other person belonging to such church or congregation; and shall also be posted in a conspicious place on the outside door, near the main entrance to such place of worship.

[Section 30 of revision, without change of substance.]

3. The rector, or if there be none, or he be necessarily absent, then one of the church wardens or vestrymen, or any other person called to the chair, shall preside at such meeting, and shall receive the votes.

[Section 30 of revision, which provides that the officiating minister shall preside, or if there be none or he be absent, any qualified voter.]

4. The persons entitled to vote at such meeting shall be the male persons of full age belonging to the church or congregation, qualified as follows, and none other:

First. Those who have been baptised in the Protestant Episcopal church, or who have been received therein either by the rite of confirmation or by receiving the holy communion; or

Second. Those who have purchased, and for not less than twelve months next prior to such meeting, have owed a pew or seat in such church; or who, during the same period of time, have hired and paid for a pew or seat in such church; or who, during the whole period aforesaid, have been contributors in money to the support of such church.

[Section 30 of revision, in which the qualification of voters are materially changed.]

5. The persons so qualified shall, at such meeting, by a majority of votes, determine:

First. The name or title by which such church or congregation shall be known in law.

Second. On what day in Easter week an annual election for church wardens and vestrymen shall thereafter take place.

Third. What number of vestrymen, not less than four or more than eight, shall annually be elected, and shall, together with the rector (if there be one), and the two church wardens, constitute the vestry of the church.

Fourth. And shall, by a majority of votes, elect two church wardens and the number of vestrymen that it shall have been determined are to be annually elected; which church wardens and vestrymen thus elected shall serve until the next regular election.

[Section 30 of revision, which provides that the annual election shall be on a secular day of the week beginning with the first Sunday in Advent; that the number of vestrymen shall be three, six or nine, elected so that the terms of one-third shall expire annually; and that the wardens shall be elected so that the term of one shall expire annually.]

6. The polls shall continue open for one hour, and longer, in the discretion of the presiding officer, or, if required, by the vote of a majority of voters present.

[Section 30 of revision, without change of substance.]

7. The presiding officer, together with two other persons, shall make a certificate under their hands and seals, of:

First. The church wardens and vestrymen so elected.

Second. Of the day in Easter week so fixed for the annual election of their successors.

Third. Of the number of vestrymen (not less than four nor more than eight) so determined upon to be annually elected to constistitute part of the vestry.

Fourth. Of the name or title by which such church or congregation shall be known in law. Which certificate being duly acknowledged, or the execution and acknowledgment thereof being duly proven before any officer authorized to take the acknowledgment or proof of deeds or conveyances of real estate, to be recorded in the county where such church or place of worship of such congregation shall be situated, shall be recorded by the clerk of such county, or by the officer whose duty it is, or may hereafter be made, to record such instruments in the county in which such church or place of worship may be situated, in a book to be by him kept for such purpose.

[Section 31 of revision, without substantial change, except that the certificate is required to contain more details, and to state the date of the annual election, the number of vestrymen, etc., chosen, in accordance with the action of the meeting.]

8. The church wardens and vestrymen so elected, and their successors in office, of themselves (but if there be a rector, then together with the rector of such church or congregation) shall form a vestry, and shall be the trustees of such church or congregation; and they and their successors shall thereupon by virtue of this act, be a body corporate, by the name or title expressed in such certificate.

[Section 31 of revision, which expressly makes the qualified voters and members the corporation instead of the vestry, in accordance with interpretation of the Court of Appeals in Robertson v. Bullions, 11 N. Y., 243; Cran v. Evan. Luth. Soc., 36 N. Y., 161.]

9. The male persons qualified as aforesaid provided they shall also have belonged to such church or congregation for twelve months immediately preceding, shall, in every year thereafter, on the day in Easter week so fixed for that purpose, elect two church wardens and as many vestrymen (not less than four, nor more than eight) as shall have been legally determined to constitute part of the vestry.

[Section 33 of revision. The time of meeting is changed to a secular day in the week beginning with the first Sunday in Advent; the qualifications of voters are changed, and but one-third of the vestrymen and one warden are elected annually.]

10. Notice shall be given of such election by the rector, if there be one, or if there be none, or he be absent, by the officiating minister, or by a church warden for two Sundays next previous to the day so fixed, in the time of divine service.

[Section 33 of revision, without change of substance.]

11. Whenever a vacancy in the board so constituted, shall happen by death or otherwise, the vestry shall order a special election to supply such vacancy; of which notice shall be given in the time of divine service, at least ten days previous thereto.

[Section 32 of revision, which empowers the vestry to fill vacancies, until the next annual election, when it is filled for the remainder of the unexpired term.]

12. The notice of any election, stated or otherwise, shall specify the place, day and hour of holding the same. The provisions contained in the preceding sixth clause shall apply to all elections.

[Section 33 of revision, without change of substance.]

13. An election to supply a vacancy, and also the stated annual election, shall be holden immediately after morning service; and at all such elections, the rector, or if there be none or he be absent, one of the church wardens selected for the purpose by a majority of the duly qualified voters present; or if no warden be present, a vestryman (selected in like manner), shall preside, and receive the votes of the electors, and be the returning officer; and shall enter the proceedings in the book of the minutes of the vestry, and sign his name thereto, and offer the same to as many electors present as he shall think fit, to be by them also signed and certified.

[Section 33 of revision, without change of substance.]

14. The church wardens and vestrymen chosen at any of the said elections shall hold their offices until the expiration of the year for which they shall be chosen, and until others are chosen in their stead; and shall have power to call and induct a rector to such church or congregation, as often as there shall be a vacancy therein, and to fix his salary or compensation.

[Section 32 and 33 of revision. Section 33 provides for the annual election of one-third of the vestrymen for three years and one warden for two years. Section 32 provides that the

vestry, subject to the canons of the church may elect rector and fix his compensation.]

15. No board or meeting of such vestry shall be held, unless at least three days' notice thereof shall be given in writing, under the hand of the rector or one of the church wardens; except that for the first meeting after an election, twenty-four hours' notice shall be sufficient; and no such board shall be competent to transact any business unless the rector, if there be one, and at least one of the church wardens and a majority of the vestrymen be present. But if the rector be absent from the State, and shall have been so absent for over four calendar months, or if the meeting has been called by the rector, and he be absent therefrom, the board shall be competent to transact all business, if there be present one church warden and a majority of the vestrymen; except that in the absence of the rector, no measure shall be taken for effecting a sale or disposition of the real property, nor may any sale or disposition of the capital or principal of the personal estate of such corporation be made, nor any act done which shall impair the rights of such rector.

[Section 32 of revision, without change of substance, except that the rector, both church wardens and one less than a majority of the vestrymen are made a quorum also.]

16. The rector, if there be one, and if not then the church warden present, or if both the church wardens be present, then the church warden who shall be called to the chair by a majority of votes, shall preside at every meeting of the board, and have the casting vote.

[Section 32 of revision, without change of substance.]

17. Whenever any corporation organized under the provisions of this act, shall deem it for the interest of such corporation to change the number of its vestrymen, it shall and may be lawful for such corporation to change the same, provided that the number of such vestrymen shall not thereby be made less than four, or more than eight. And in order to effect such change the same shall be authorized and approved by the vestry at a regular meeting thereof; and shall then at the next stated annual election for wardens and vestrymen be submitted to, and ratified by a majority of the votes of all the qualified voters voting at such election, notice of which proposed change, and that the same will be submitted for ratification at such election shall be given at the same time, and in the same manner as is required for notice of the said election; if such change be thus ratified, a certificate

shall be made setting forth the resolution of the vestry, and the proceedings to ratify the same, together with the fact of the notice being given as required, and shall be acknowledged or proved and recorded in the same manner as is required for the original certificate of organization, and thereupon the number of vestrymen to constitute a part of the vestry of such corporation shall be such as shall be fixed by the proceedings to effect such change. But such change shall not take effect or be operative, until the certificate above mentioned shall have been duly recorded.

[Section 34 of revision for churches hereafter incorporated, section 35 of revision for churches heretofore incorporated, changes in detail are made necessary, by reason of the change in the number of vestrymen, and the terms of vestrymen and wardens.]

18. The provisions of this act shall apply to citizens of this State belonging to any church or congregation in communion with the Protestant Episcopal church in this State whose church or place of worship is situated outside of this State and in a country the laws of which do not in terms provide for the incorporation of such church or congregation, except that in every such case the certificate provided for by the seventh subdivision of this section may be executed before any officer authorized to take acknowledgment or proof of conveyances of real estate to be recorded in the city and county of New York, and shall be recorded in the city and county of New York in like manner as required where the church or place of worship is situated in the city of New York. (This subd. added by L. 1886, chap. 98.)

[Section 3 of revision, which provides generally for the filing in the office of the secretary of state, of certificates of religious corporations which have no place of worship within the State.]

§ 2. And be it further enacted, That the minister or ministers and elders and deacons, and if during any time there be no minister, then the elders and deacons, during such time, of every Reformed Protestant Dutch church or congregation now or hereafter to be established in this State, and elected according to the rules and usages of such churches within this State, shall be the trustees for every such church or congregation; and it shall be lawful for the said trustees, if not already incorporated, to assemble together as soon as they shall deem it convenient, and execute under their hands and seals a certificate certifying the name or title by which they and their successors forever as a

body corporate, by virtue of this act, shall be known and distinguished; which certificate being duly acknowledged or proved as aforesaid, shall be recorded by the clerk of such county in a book to be by him provided as aforesaid; and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate by the name or title expressed in such certificate; and it shall be lawful for the trustees of any such church or congregation, elected by virtue of any former law of this State, by writing under their hands and seals, to be proved, acknowledged and recorded as aforesaid, to declare their will not to continue any longer a body corporate, and thereupon such body corporate shall cease, and all the estate, real and personal, held by them shall pass to and be vested in the trustees of such church or congregation, made a body corporate in the manner above directed: Provided always, that nothing herein contained shall be construed in any manner to impair or alter the rights of any of the chartered churches within this State.

[Section 60 of revision authorizes such a church to determine whether to incorporate under section 62, which is substantially the system provided for by this section; or under article 5, section 80 ff., which provides for the election of trustees by the members of the congregation. This option of originally incorporating by either system is new as to these churches.]

§ 3. And be it further enacted, That it shall be lawful for the persons of full age, belonging to any other church, congregation or religious society, now or hereafter to be established in this State, and not already incorporated, to assemble at the church meeting-house, or other place where they statedly attend for divine worship, and by plurality of voices, to elect any number of discreet persons of their church, congregation or society, not less than three, nor exceeding nine in number, as trustees, to take the charge of the estate and property belonging thereto, and to transact all affairs relative to the temporalities thereof; and that at such election, every person of full age, who has statedly worshipped with such church, congregation or society, and has formerly been considered as belonging thereto, shall be entitled to vote, and the said election shall be conducted as follows: The minister of such church, congregation or society, or in case of his death or absence, one of the elders or deacons, church wardens or vestrymen thereof, and for want of such officers, any other person being a member or a stated hearer in such church, congregation or society, shall publicly notify the congregation of the time when, and place where, the said election shall be held, at least fifteen days before the day of election; that the said noti-

fication shall be given for two successive Sabbaths or days on which such church, congregation or society, shall statedly meet for public worship, preceding the day of election; that on the said day of election, two of the elders or church wardens, and if there be no such officers, then two of the members of the said church, congregation or society, to be nominated by a majority of the members present, shall preside at such election, receive the votes of the electors, be the judges of the qualification of such electors, and the officers to return the names of the persons who, by plurality of voices, shall be elected to serve as trustees for the said church, congregation or society; and the said returning officers shall immediately thereafter certify, under their hands and seals, the names of the persons elected to serve as trustees of such church, congregation or society, in which certificate the name or title by which the said trustees and their successors shall forever thereafter be called and known, shall be particularly mentioned and described; which said certificate being proved or acknowledged as above directed, shall be recorded as aforesaid; and such trustees and their successors shall also thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate; and the clerk of every county for recording every certificate of incorporation by virtue of this act, shall be entitled to seventy-five cents, and no more. Any church, congregation or religious society, heretofore or hereafter incorporated under the provisions of this section, and acting or existing in connection and fellowship with the Congregational denomination, may, at any regular meeting thereof, change the qualifications of the members and voters of such society, by prescribing that all elections, resolutions and votes shall be determined by a majority of the members of the church in good and regular standing, according to its rules, usages and discipline, and of full age, present and voting, provided that notice of the intention to consider or make such change shall have been given in the notice of such annual meeting. Such change, however, shall not be deemed to impair or affect the identity, property or other rights, or the powers or obligations of the corporation or society as existing up to the time of the adoption of such change. (Thus amended by L. 1890, chap. 66.)

[The provisions for meeting for incorporation, the proceedings thereat, and the certificate of incorporation are in sections 81-83, 85 of revision. For changes in substance, see notes to those sections. Section 3 of revision provides for filing and recording of certificates. See note thereto. The latter part relating to Congregational church is in section 85 of revision.]

§ 4. And be it further enacted, That the trustees of every church, congregation or society, herein above mentioned, and their successors, shall respectively have and use a common seal, and may renew and alter the same at their pleasure, and are hereby authorized and empowered to take into their possession and custody all the temporalities belonging to such church, congregation or society, whether the same consist of real or personal estate, and whether the same shall have been given, granted or devised, directly to such church, congregation or society, or to any other person for their use; and also, by their corporate name or title, to sue and be sued in all courts of law or equity, and to recover, hold and enjoy all the debts, demands, rights and privileges, and all churches, meeting-houses, parsonages and burying places, with the appurtenances and all estates belonging to such church, congregation or society, in whatsoever manner the same may have been acquired, or in whose name soever the same may be held as fully and amply as if the right or title thereto had originally been vested in the said trustees; and also to purchase and hold other real and personal estate, and to demise, lease and improve the same, for the use of such church, congregation or society, or other pious uses, so as the whole real and personal estate of any such church, congregation or society, other than the corporation of the minister, elders and deacons of the Reformed Protestant Dutch church of the city of New York, and the First Presbyterian church of the city of New York, and the rector, church wardens and vestrymen of St. George's church in the city of New York, and of the ministers, elders and deacons of the Reformed Dutch church in the city of Albany, shall not exceed the annual value or income of three thousand dollars; and of the said corporation of the minister, elders and deacons of the Reformed Protestant Dutch church of the city of New York, the annual value or income of nine thousand dollars; and of the said First Presbyterian church of the city of New York, the annual value or income of six thousand dollars; and of the said rector, church wardens and vestrymen of St. George's church, in the city of New York, the annual value or income of six thousand dollars; and of the ministers, elders and deacons of the Reformed Dutch church in the city of Albany, the annual value or income of ten thousand dollars; and also to repair and alter their churches or meeting-houses, and to erect others if necessary, and to erect dwelling-houses for the use of their ministers, and school-houses and other buildings for the use of such church, congregation or society; and such trustees shall also have power to

make rules and orders for managing the temporal affairs of such church, congregation or society, and to dispose of all moneys belonging thereto, and to regulate and order the renting the pews in their churches and meeting-houses, and the perquisites for the breaking of the ground in the cemetery or church yards, and in the said churches and meeting-houses for burying of the dead, and all other matters relating to the temporal concerns and revenues of such church, congregation or society; and to appoint a clerk and treasurer of their board, and a collector to collect and receive the said rents and revenues, and to regulate the fees to be allowed to such clerk, treasurer and collector, and them or either of them to remove at pleasure, and appoint others in their stead; and such clerk shall enter all rules and orders made by such trustees, and payments ordered by them, in a book to be provided by them for that purpose.

[General Corporation Law, section 11, authorizes the corporation to have a seal. The succession of temporalities is provided for by section 4 of revision. Provisions limiting property, omitted as covered by General Corporation Law, section 12. That the corporation may sue and be sued, is provided for by article 8, section 3, of the Constitution. The general powers and duties of the trustees are provided by the general terms of section 5 of revision. See note to that section.]

§ 5. And be it further enacted, That it shall be lawful for any two of such trustees, other than the trustees mentioned in the first section of this act, or their successors, at any time to call a meeting of such trustees, and that the majority of the trustees of any church, congregation or society mentioned in this act, being lawfully convened, shall be competent to do and perform all matters and things which such trustees are authorized or required to do and perform, and that all questions arising at any such meetings shall be determined by a majority of the trustees present, and in case of an equal division, the presiding trustee shall have a casting vote.

[Section 88 of revision, without change of substance.]

§ 6. And be it further enacted, That the trustees first chosen according to the third section of this act, shall continue in office for three years from the day of their election, and immediately after such election the said trustees shall be divided by lot into three classes, numbered one, two and three, and the seats of the members of the first class shall be vacated at the expiration of the first year, of the members of the second class at the expira-

tion of the second year, and the members of the third class at the expiration of the third year, to the end that the third part of the whole number of trustees, as nearly as possible may be annually chosen; and the said trustees, or a majority of them, shall at least one month before the expiration of the office of any of the said trustees, notify the same in writing to the minister, or in case of his death or absence, to the elders or church wardens, and in case there shall be no elders or church wardens, then to the deacons or vestrymen of any such church, congregation or society specifying the names of the trustees whose times will expire, and the said minister, or in case of his death or absence, one of the said elders or church wardens, or deacons or vestrymen, shall in manner aforesaid, proceed to notify the members of the said church, congregation or society of such vacancies, and appoint the time and place for the election of new trustees to fill up the same, which election shall be held at least six days before such vacancies shall happen, and all such subsequent elections shall be held and conducted by the same persons and in the manner above directed, and the results thereof certified by them, and such certificate shall entitle the persons elected to act as trustees, and in case any trustee shall die or refuse to act, or remove within the year, notice thereof shall be given by the trustees as aforesaid, and a new election appointed and held, and another trustee be elected in his stead in manner aforesaid.

[The terms of the first trustees are fixed by section 82, which provides for their election for definite terms instead of their division by lot as here provided. The time, place and manner of conducting corporate meeting are provided for by sections 84 and 85 of revision. Section 89 of revision provides the vacancies in board of trustees shall be filled by board until next annual election.]

§ 7. And be it further enacted, That no person belonging to any church, congregation or society intended by the third section of this act, shall be entitled to a vote at any election succeeding the first until such person shall have been a stated attendant on divine worship in the said church, congregation or society at least one year before such election, and shall have contributed to the support of the said church, congregation or society, according to the usages and customs thereof, and that the clerk to the said trustees shall keep a register of the names of all such persons as shall desire to become stated hearers in the said church, congregation or society, and shall therein note the time when such request was made, and the said clerk shall

attend all such subsequent elections in order to test the qualifications of such electors in case the same should be questioned, except that in the Methodist Episcopal church in the city of Brooklyn, no person shall be entitled to vote at any election succeeding the first until such person shall have been a member of full age and of at least twelve months' standing in the local church for which the trustees are to be elected. (Thus amended by L. 1875, chap. 597.)

[Section 85 of revision. For change in qualification of voters, see note to section 82 of revision.]

§ 8. And be it further enacted, That nothing in this act contained shall be construed or taken to give to any trustee of any church, congregation or society the power to fix or ascertain any salary to be paid to any minister thereof, but the same shall be ascertained by a majority of persons entitled to elect trustees, at a meeting to be called for that purpose, and such salaries, when fixed, shall be ratified by the said trustees, or a majority of them, by an instrument in writing under their common seal, which salary shall thereupon be paid by the said trustees out of the revenues of such church, congregation or society.

[Section 90 of revision, without change of substance.]

§ 9. And be it further enacted, That whenever any religious corporation within this state, other than the chartered corporations, shall deem it necessary and for the interest of such religious corporation to reduce, or to increase, their number of trustees, that it shall and may be lawful for any such religions corporation to reduce, or to increase, their number of trustees at any annual meeting; provided, that such reduction or increase shall not be such as to have a less number than three, or a larger number than nine trustees in any one of the said religious corporations; provided, that a notice of at least two weeks shall be given, at a regular meeting of such society of the time and place of holding any meeting at which any such reduction or increase may be proposed. (Thus amended by L. 1886, chap. 414.)

[Section 87 of revision.]

§ 10. And be it further enacted, That the treasurer of every religious corporation, singly, or the trustees or persons intrusted with the care and management of the temporalities of any church, congregation or religious society already incorporated, by virtue of any act of the legislature, or which may hereafter be incorporated in the cities of New York, Albany or Schenectady, or a

majority of them respectively, shall once in every three years, and between the first day of January and the first day of April triennially, to be computed from the first day of January last, exhibit upon oath to the chancellor, or to one of the justices of the supreme court, or any of the judges of the court of common pleas in the county where such church, congregation or society shall be situated, an account and inventory of all the estate, both real and personal, belonging at the time of making such oath to the church, congregation or society, for which they respectively are trustees or managers as aforesaid, together with an account of the annual revenue arising therefrom; and if any such trustees or person intrusted as aforesaid, shall neglect to exhibit such account and inventory for the space of six years, after the expiration of every three years as aforesaid, and shall not then exhibit the same, and procure a certificate to be indorsed thereon by the chancellor or judge, that he is satisfied that the annual revenue arising from the real and personal estate of such corporation does not, nor has not for the six preceding years, exceeded the sum which by law it is allowed to receive, then such trustees or persons intrusted as aforesaid, shall cease to be a body corporate: And in every case where it shall appear from such account and inventory, that the annual revenue of any church, congregation or religious society in either of the said cities, exceeds the sum which by virtue of any charter or law they may or can respectively hold and enjoy, it shall be the duty of the chancellor, justice or judge before whom the same shall be so exhibited, to report the same, together with such account and inventory, to the legislature at their next meeting.

[Section 13 of revision providing for a judicial investigation of the accounts of religious corporations, supersedes the obsolete provisions of this section. See notes to that section.]

§ 11. Any religious corporation may make application to the supreme court at any special term thereof held in and for the district where the property of said corporation is located, or to the county court in and for the county where the property of said corporation is located for leave to mortgage or sell any real estate belonging to such corporation, and upon obtaining such leave said corporation shall have power to mortgage or sell its real estate as shall be provided by the order of the court made upon such application: Provided, That this act shall not extend to any of the lands granted by this state for the support of the gospel. (Thus amended by L. 1890, chap. 424.)

[Section 11 of revision. See note to that section. The last sentence is omitted as obsolete.]

§ 12. And be it further enacted, That it shall be lawful for every religious corporation created by letters patent under the great seal of the colony of New York, to have, hold and enjoy lands, tenements, goods, and chattels of the yearly value of three thousand dollars, although the letters patent by which such corporation was created, shall contain a clause or clauses restricting and limiting the annual revenue and income of such corporation to a less sum than the said three thousand dollars.

[Omitted. See General Corporation Law, § 12, which allows a religious corporation to hold property of the annual income of $500,000.]

§ 13. And be it further enacted, That every corporation of any church congregation or religious society heretofore made in pursuance of any law of this state, and in conformity to the directions contained in this act, shall be, and the same is hereby established and confirmed, and such corporation shall be deemed to have commenced from the time of recording such certificate as aforesaid; and in case of the dissolution of any such corporation, or of any corporation hereafter to be formed in pursuance of this act, by reason of a noncompliance with the direction, herein contained, the same may be reincorporated in the manner prescribed in this act, at any time within six years after such dissolution, and thereupon all the estate real and personal formerly belonging to the same, shall vest in such corporation, as if the same had not been dissolved: Provided, That in such case the said account and inventory required to be exhibited by such corporation in the cities of New York, Albany and Schenectady, shall be exhibited within one month after such reincorporation, and triennially thereafter, as above directed.

[Omitted as unnecessary.]

§ 14. And be it further enacted, That the corporation of the Methodist Episcopal church, in the city of New York, shall be and hereby are authorized to continue to elect nine trustees of the said corporation, in the same manner as if that number of trustees had originally been named in the certificate of incorporation, and such trustees shall be classed, or continue to be classed, in the manner prescribed by the sixth section of this act.

[Section 85 of revision, last paragraph.]

§ 15. And be it further enacted, That no religious corporation shall be deemed to be dissolved for any neglect hitherto

to exhibit an account or inventory of its real or personal estate, and the annual income thereof, nor for having held or hereafter holding elections of church officers on days before or after any movable feast observed by said church, the intervening time between such elections being more than a solar year; provided, that such account or inventory shall be exhibited within two years after the passing of this act, and that previous public notice be given to the congregation of the time and place of holding such elections.

[The exhibition of such accounts is not required by revision, and the section is, therefore, omitted. Section 13 of revision, provides for the judicial investigation of the property of religious corporations.]

§ 16. And be it further enacted, That whenever any religious corporation shall be dissolved by means of nonuser or neglect to exercise any of the powers necessary for its preservation, it shall be lawful for the religious society which was connected with such corporation to reincorporate itself in the mode prescribed by this act, and that thereupon all the real and personal property which did belong to such dissolved corporaiton at the time of its dissolution, shall vest in such new corporation for the said society.

[Omitted as unnecessary.]

(Laws 1814, ch. 1; R. S., 8th ed.)

[§§ 1-5 are local and are not repealed.]

§ 6. And be it further enacted, That in every case where a church or religious society which has been or may be duly incorporated shall have exhibited such account and inventory as is specified in the ninth section of the act entitled "An act to provide for the incorporation of religious societies," it shall not be necessary for such church or society again to exhibit any account or inventory unless the said church or society subsequently to such exhibition shall have purchased or acquired any lands, tenements or hereditaments within this state, any act, law or usage to the contrary notwithstanding: Provided always, That nothing in this act contained shall be construed to affect or defeat the right of any person or persons, or of any body corporate, to the estate, real or personal, now held, occupied or enjoyed by the corporation of Trinity church.

[The exhibition of an inventory is not required by revision. Section 13 of revision provides for judicial investigation of

amount of property of religious corporations. Statutory Construction Law, section 31, saves rights already acquired.]

(Laws 1819, ch. 33; R. S., 8th ed., 1891.)

[Section 1 was repealed by L. 1868, ch. 803.]

§ 2. And be it further enacted, That all incorporations of churches or congregations heretofore formed or made under the first section of the act hereby amended, although by persons who may not have belonged to such churches or congregations for the last twelve months then preceding, shall be deemed valid and effectual, in like manner, as if formed or made by persons qualified according to the provisions of the same section.

§ 3. And be it further enacted, That it shall be lawful for each and every of the religious incorporations created, or to be created, within the city of New York in pursuance of this act, or of the act hereby amended, to take and hold real and personal estate of the annual value or income of six thousand dollars, anything contained in the fourth section of the act hereby amended to the contrary notwithstanding.

[Section 2 is omitted, as temporary. Section 3 is omitted. General Corporation Law, section 12, authorizes religious corporations to hold property, the annual income from which does not exceed $500,000.]

(Laws 1822, ch. 187; R. S., 8th ed., 1892.)

Section 1. Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the minister or ministers, and elders and deacons, and if during any time there shall be no minister, then the elders and deacons, during such time, of every Reformed Presbyterian church or congregation, elected according to the rules, constitution and usages of the Reformed Presbyterian church now or hereafter to be established within this state, shall be the trustees for every such church or congregation; and it shall be lawful for the said trustees, if not already incorporated, to assemble together as soon as they shall deem it convenient, and execute under their hands and seals, a certificate, stating the name and title by which they and their successors in office, forever, as a body corporate, by virtue of this act, shall be known and distinguished, which certificate shall be duly acknowledged or proved in the manner directed by the "act to provide for the incorporation of religious societies," with regard to the certificates of other religious societies incorporated under the said

act, and shall be thereupon recorded by the clerk of the county in which such church or congregation is established, in the book by him provided according to the direction of the aforesaid act; and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate; and such trustees and their successors so elected and incorporated, shall, by and in such name or title, have, possess and enjoy, all and singular the rights, liberties, powers and privileges, and be subject to all the duties and limitations of trustees, mentioned and prescribed in and by the aforesaid act, to which this act is supplementary, and may hold property in the manner and to the amount therein prescribed with regard to the religious societies incorporated under that act: Provided, That they shall not at any time determine or alter the minister's salary, or the annual rent of pews, but that the same shall be always subject to the vote of the congregation, any thing in this act, or in the act to which this is supplementary, to the contrary notwithstanding.

[Section 60 of revision provides that a Reformed Presbyterian church may determine to incorporate by electing trustees in pursuance of article 5, section 80ff, or by constituting certain officers of the society the trustees thereof. This option is new. If it is decided to incorporate by the ex-officio system, the corporation is formed pursuant to section 62 of revision, which is substantially the same method provided hereby. Section 65 of revision provides that the salary of the minister and the rent of the pews shall be fixed by the congregation. The powers of the trustees in relation to the temporalities of the corporation are fixed by section 5 of revision.]

(Laws 1825, ch. 303; R. S., 8th ed., 1892.)

Section 1. Be it enacted by the People of the State of New York, represented in Senate and Assmbly, That the churches or congregations in this state, in connection with the church which has styled itself the True Reformed Dutch Church in the United States of America, may incorporate themselves in the mode prescribed in and by the second section of the act, entitled "An act to provide for the incorporation of religious societies," passed April 5, 1813.

[Sections 60 and 62 of revision.]

(Laws 1826, ch. 47; R. S., 8th ed., 1892.)

Section 1. If any church, congregation or religious society now or hereafter to be incorporated, according to the provisions of

the third section of the act hereby amended, shall neglect or omit, or have neglected or omitted, at their stated annual election, to choose any one of the three classes of trustees as mentioned in the sixth section of the said act, the said church, congregation or religious society shall not be deemed and taken to be thereby dissolved; but the trustees then or now already chosen shall continue to hold their offices until others be chosen in their stead; and whenever such neglect or omission shall happen through defect of due notice, or otherwise, the trustees of said church, congregation or religious society, or a majority of them, shall immediately thereafter give notice thereof, in writing, to the minister, or in case of his death or absence, to the elders or church wardens, and in case there shall be no elders or church wardens, then to the deacons or vestrymen of any such church, congregation or society; and the said minister, or in case of his death or absence, one of the said elders or church wardens, deacons or vestrymen, shall, in the manner prescribed in the third section of the said act, proceed to notify the members of the said church, congregation or society of such neglect or omission, and appoint the time and place for the election of new trustees to remedy the same, of which election at least fifteen days' notice shall be given in the manner aforesaid; except that it shall be lawful for the religious denomination known as the "United Brethren in Christ" to elect their trustees by the quarterly conference of each circuit, station or mission of said denomination, for full terms or to fill vacancies in office, without further notice than the customary notice of such quarterly conference as required by the rules and regulations of such denomination, and the said election shall be held and conducted by the same persons, in the same manner, and the result be certified in like manner as is prescribed in and by the sixth section of the act hereby amended, and by the rules of the "United Brethren Church," and shall have the same force and effect as elections held under and by virtue of said section, and not otherwise. (Thus amended by L. 1875, chap. 354.)

[The provisions of this section as to neglect to elect trustees is covered by General Corporation Law, sections 23, 24. The provision as to notice of meeting, etc., is covered by section 81 of revision. The provision as to United Brethren is in section 91 of revision.]

§ 2. And be it further enacted, That whenever there shall have been any omission or neglect of any church, congregation or religious society at their stated annual meeting, to choose any of

the trustees, church wardens, vestrymen or other officers, according to the provisions of the act hereby amended, such church, congregation or religious society, shall not be deemed or taken to have been thereby dissolved; but the trustees, church wardens, vestrymen or other officers then in office at the time of such omission, shall be deemed and taken to be legal officers of such church, congregation or society; provided, that elections to supply such omissions shall be made within one year after the passing of this act.

[Covered by section 23 of General Corporation Law.]

§ 3. And be it further enacted, That it shall be lawful for the members of any church, congregation or society, qualified to vote for trustees, wardens or vestrymen, or a majority of them, at any stated annual meeting of the said members, to appoint and fix any day in the succeeding year as the day on which the election of officers of such church, congregation or society shall be held; and the elections held on such day shall be as valid to all intents and purposes as if the same had been made on the days formerly appointed for that purpose; and in case elections shall not be held on the days so appointed, it shall be the duty of the trustees, church wardens or vestrymen, then in office, to give the notice prescribed in the first section of this act, and to proceed according to the provisions thereof, to an election to supply all vacancies then existing.

[The provisions of this section for changing date of election are in section 86 of revision.]

(Laws 1835, ch. 90; R. S., 8th ed., 1893.)

[Section 1-7 omitted as local.]

§ 8. Any of the churches in this state in connection with the Reformed Protestant Dutch church, whose temporal affairs are under the management of a consistory or board of officers elected or chosen from such persons only as are in communion with the said church, may, if the said consistory or board so determine, at any time hereafter confide the management and care of the temporal concerns of said church to a board of trustees, not less than seven nor more than nine in number; and such determination shall be reduced to writing and signed by the president and secretary or clerk of said board, with the seal of said corporation, if any, thereto affixed, and shall be acknowledged by said president before some person authorized to take the acknowledgment of deeds, and be recorded in the office of the county

clerk of the county in which such church shall be situated, in the book of records relative to religious incorporations, or other proper book of records; and thereupon such proceedings shall be taken for the election of the said board of trustees, and they shall be chosen on the same notice, in the same manner, out of the same body, by the same persons, shall have their elections certified in the same manner, continue in office for the same term, their successors be elected in like manner, and shall have, possess and enjoy the same rights, powers and privileges, and be subject to the like obligations, and shall act in concurrence with the consistory of such church in the choice of minister, and in all respects be a board of trustees with the same rights and powers, and have the like control of the property and temporal affairs of the church, as the board intended to be constituted by the previous sections of this act.

[The provisions of this section for the election of a separate board of trustees are in section 64 of revision. The general powers of the trustees are prescribed by section 5 of revision.]

§ 9. If the said board of trustees that may so be elected by any other church in communion with the Reformed Dutch church, shall deem it necessary or proper to change the corporate name of said church to that of a Reformed Dutch church, with such further designation as may be necessary in consequence of the change effected in its organization by the election of a board of trustees as aforesaid, they shall be at liberty so to do, and certify such their determination in proper form, under the signature of their president, which shall be acknowledged by him before some officer authorized to take the acknowledgment of deeds, and be recorded in the same manner as the certificate referred to in the last section; and thereupon such corporation shall be known and distinguished by the corporate name and style that may have been determined upon and expressed in said certificate.

[Civil Code, section 2411ff.]

§ 10. Any church in connection with the Reformed Protestant Dutch church in this state, the choice or election of the members of whose consistory is not subject to the ecclesiastical rules or jurisdiction of said church, may at any time, on the determination and resolve of the said consistory to that effect, be made subject to such rules and jurisdiction, and thenceforth the choice of members of the said consistory shall be made in accordance with such rules and the practice of the said Dutch church.

§ 11. This act is passed subject to the power of the legislature to alter, amend or repeal the same at their pleasure.

[Section 10 is in section 63 of revision, without change of substance.]

(Laws 1839, ch. 174, R. S., 8th ed., 2441.)

Section 1. All deeds of trust in relation to real and personal estate executed and delivered prior to the first day of January, eighteen hundred and thirty, to any persons in trusts for any united society of the people commonly called Shakers, shall be valid and effectual to vest in the trustees the legal estates and interests purported to be conveyed by such deeds, to and for the uses and purposes declared therein, or declared by any declaration of trusts executed by such trustees in the same manner and to the same effect as before the first day of January, eighteen hundred and thirty; and such legal estate and trusts, and all the legal authority with which the original trustees were vested by virtue of their appointment and conferred powers, shall forever descend in regular succession to their successors in office and trust, who in conformity to the constitution of said society have been duly chosen and appointed. (Thus amended by L. 1849, ch. 373.)

§ 2. Trusts of real and personal estate for the benefit of any united society of the people called Shakers, may hereafter be created for the use of the members of any such society according to the religious constitution of such society; and the legal estates of any property so held in trust shall be vested in the trustees and in those to whom such property may be transmitted in trust by the appointment of any such society, so long as may be required for the objects and purposes of such trusts. But no society shall become beneficially interested in any real or personal property, or acquire any equitable right or interest in any such property, either directly or indirectly, the annual value or income of which after deducting necessary expenses, shall exceed twenty-five thousand dollars, on pain of forfeiture of the privileges conferred by this act: nor shall any trustee be a trustee of more than one such society at the same time. (Thus amended by L. 1852, ch. 203.)

§ 3. The word "society," for the purposes of the preceding section, shall be construed and understood to mean and include all persons of the religious belief of the people called Shakers, resident within the same county.

§ 4. The legislature may at any time alter, modify or repeal this act.

[This act is in section 92 of revision, without change of substance.]

(Laws 1839, ch. 174; R. S., 8th ed., 2441.)

Section 1. All deeds or declarations of trusts of real or personal estate, heretofore executed and delivered to any person or persons, in trust, or for the use and benefit of any meeting of the religious society of Friends, and the trusts thereby created or declared, shall be valid; and the legal estates may be transmitted, and the trusts so created or declared may be continued and pursued, so long as may be required for the purposes of the trusts, by conveyances from the trustees named in such deeds to other trustees appointed by such meeting, and by conveyances from them to others appointed in like manner or otherwise, according to the directions of such meeting.

§ 2. Trusts of real or personal estate for the benefit of any meeting of the religious society of Friends may be hereafter created for the use of such meeting according to the regulations and rules of discipline of said society; and the legal estate of any property, so held in trust, shall be vested in the trustees and in those to whom such property may be conveyed in trust, by the appointment of any such meeting, so long as may be required for the objects and purposes of such trusts, but nothing contained in this act shall be so construed as to impair or diminish the rights of any person, meeting, or association of persons claiming to be a meeting of the religious society of Friends, which such person, or meeting, or association claiming to be a meeting as aforesaid, had either in law or in equity to or in any real or personal estate held in trust for the use and benefit of any meeting of the said religious society, prior to the division which took place in said religious society at the yearly meeting held in the city of New York in the month of May, in the year of our Lord one thousand eight hundred and twenty-eight; and nothing in this act contained shall authorize any real or personal estate to be held in trust for any meeting of such society, the annual value or income of which shall exceed twenty thousand dollars. (Thus amended by L. 1880, ch. 337.)

§ 3. In case of the death of all the trustees heretofore appointed, or who may be herafter appointed by virtue of this act, any regular meeting of the religious society of Friends, for whose use and benefit said property was held in trust, may appoint a trustee or trustees in the place of such person or per-

sons, and the person or persons thus appointed by such meeting shall succeed to and be invested with all the powers, rights and duties conferred by this act and the deed or declaration of trust upon the trustee or trustees. (Added by L. 1878, ch. 209.)

[Sections 1-3 are in section 92 of revision, without change of substance.]

§ 4. The trustee or trustees, or survivor of any trustees, appointed pursuant to this act, may sell, convey and grant or demise any or all of the trust property described in said trust deed or declaration of trust to any person absolutely, or in trust for said meeting, whenever any meeting of said society shall by resolution direct the same to be sold and conveyed; any conveyance of real estate or property so held in trust by any meeting of the religious society of Friends, which may hereafter be made under and in pursuance of a resolution of the said meeting as provided herein, shall be as valid and effectual for the conveyance of the title of any real estate so held in trust, as if the heirs of any trustee who may have died prior to the passage of said resolution had joined in the execution of said conveyance or demise. Any instrument for the sale or demise of said property shall embody the said resolution of said meeting, relating to said sale or demise of said property, and shall be executed by the said trustee or trustees; and in said acknowledgment said trustee or trustees shall make an affidavit that the person or persons so executing said conveyance or demise are the trustee or trustees of said trust property, and that the said resolution embodied in such conveyance or demise was duly passed by said meeting; and the said affidavit thus made shall be prima facie evidence of the facts therein stated. (Added by L. 1878, ch. 209.)

[Section 93 of revision, without change of substance.]

(Laws, 1842, ch. 153; R. S., 8th ed., 1894.)

Section 1. Any incorporated religious society within the city of New York, which having exhibited the account and inventory required by the tenth section of the act entitled, "An act to provide for the incorporation of religious societies," has not since purchased or acquired lands or tenements within this state, may hereafter purchase, acquire, and hold land in the city and county of New York, or in any neighboring county of this state, or any estate or interest in such land, for the purpose of a burial place or cemetery, and may erect thereon a suitable edifice in which to perform the religious services usual on the burial of the dead,

and also necessary buildings for the residence and accommodation of grave-diggers and keepers of the grounds; and whilst and so long as such land shall not be appropriated and applied to any other purpose, such corporation shall not, by reason of the purchase or acquisition thereof, become bound or liable again to exhibit an account or inventory of its estates, unless it shall subsequently purchase or acquire other lands or tenements within this state.

§ 2. If any land so to be purchased or acquired by any such religious corporation, shall be subsequently appropriated or applied to any use or purpose other than as is hereby authorized every such corporation which shall otherwise appropriate or apply the same, or suffer it to be so otherwise appropriated or applied, shall thenceforth be subject to the provisions of the tenth section of the above-mentioned act, in the same manner as if this act had not been passed.

[Section 7 of revision. The exhibition of an account and inventory is not required by revision, but section 11 authorizes a judicial inquiry as to the amount of property held by the corporation.]

(Laws 1842, ch. 215; R. S., 8th ed., 1895.)

Section 1. It shall not be lawful for any church or religious corporation to mortgage any burying-ground used for the interment of human remains, for the use of which they shall have received compensation, without the previous consent in writing of three-fourths in number of the congregation or society of such church or corporation; which consent shall be proved or acknowledged, in the same manner as deeds are now required by law to be proved or acknowledged, and shall thereupon be recorded in the office of the register of the city, or clerk of the county, in which such burying-ground is situated.

[Section 11 of revision prohibits a religious corporation from mortgaging its cemetery lands while they are used for cemetery purposes, or from mortgaging or selling any of its real property without leave of the court.]

§ 2. It shall not be lawful for any person or persons to remove any dead body or human remains from any burying-ground for the interment of which compensation shall have been received by any church or religious corporation, or by any officer or officers thereof, and which shall have been used for that purpose during the last three years, with the intent to convert the said burying-ground to any other purpose, without having first obtained the consent in writing of three-fourths in number of

the congregation or society of such church or corporation; and which consent shall be proved or acknowledged and recorded in the manner prescribed by the first section of this act, before any such removal shall be commenced or attempted.

[Covered substantially by section 8 of revision.]

(Laws of 1844, ch. 158; R. S., 8th ed., 1896.)

Section 1. Certificates of incorporation authorized by the "Act to provide for the incorporation of religious societies," passed April 5, 1813, which shall hereafter be made or executed, may be acknowledged or proved before any officer authorized to take acknowledgments or proofs of conveyances of real estate, and in the same manner and of the like effect; and upon being so acknowledged or proved, shall be entitled to be recorded as in said act provided.

[Filing and recording of certificates is provided by section 3 of revision. Statutory Construction Law section 15 specifies officers authorized to take acknowledgments.]

§ 2. All such certificates which have been heretofore acknowledged or proved befoe any officer authorized to take acknowledgments or proofs of conveyances of real estate shall and are hereby declared to be of the same force and validity as if the same had been acknowledged or proved before any one of the officers named in the first section of the act hereby amended; but nothing herein contained shall be construed to impair or affect the rights of any person or persons in any case where any legal proceedings shall be instituted for enforcing such rights, before the passage of this act.

[Omitted as unnecessary.]

§ 3. Whenever there shall have been any omission or neglect of any church or congregation, or religious society at their stated annual meeting to choose any of the trustees, church wardens, vestrymen or other officers, such church, congregation or religious society, shall not be deemed or taken to have been thereby dissolved, but the trustees, church wardens, vestrymen or other officers in office at the time of such omission, shall be deemed and taken to be the legal officers of such church, congregation or society, and shall continue to hold their offices until others be chosen in their stead; provided that elections to supply such omissions shall be made within one year after their occur-

rence respectively, or within one year after the passage of this act.

[General Corporation Law, sections 23, 24.]

(Laws 1849, ch. 373, amends L. 1839, ch. 174.)
(Laws 1850, ch. 122, R. S., 8th ed., 1897.)

Section 1. No church or religious society, now incorporated, shall be deemed dissolved, nor shall any of its rights or privileges be impaired or affected by reason of the trustees, or other persons intrusted with the management of its temporalities, having omitted to exhibit an account and inventory of the real and personal estate belonging to such church or society, or of the annual income or revenue arising therefrom; and any forfeiture incurred by reason of any such omission is hereby waived and discharged; and no such account and inventory shall hereafter be required from any incorporated church or religious society, unless the annual income of its property shall exceed six thousand dollars.

[Exhibition of accounts and filing of inventory is not required by revision. Section 13 provides for a judicial investigation of the amount of property, etc., of religious corporations.]

§ 2. Whenever any religious corporation incorporated under the "Act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, or by any special charter, shall deem it necessary or expedient for the accommodation of its members in consequence of their number or dispersed habitations or otherwise, to increase the facilities of public worship, the vestry or trustees thereof may purchase and hold grounds in the same village, town or city, and may erect thereon suitable associate houses or churches, or convenient chapels, and also at the same time or thereafter, purchase and hold other grounds for the purpose, and erecting thereon suitable school-houses for Sunday or parochial schools of the said associate meeting-houses, or churches, or chapels, or may hire or purchase and hold any such grounds, with suitable buildings already erected thereon for the like purpose, notwithstanding any restriction contained in the said act, or in any such charter; and the persons statedly worshiping in any such associate meeting-house or church or in said chapel, may, with the consent of the vestry or trustees of said corporation, be separately organized and incorporated, and when so separately organized and incorporated, it shall be lawful for

the primary or parent corporation to grant, demise and convey, to the new corporation so organized and incorporated, the grounds so purchased, with the aforesaid associate meeting-houses or churches, or chapels erected thereon with or without consideration, and subject to such conditions and reservations not forbidden by law as the trustees of the said primary or parent corporation may deem best. Provided only that such demise, grant, or conveyance shall be made in the manner now prescribed by law for the sale or mortgage of the real estate of religious corporations. (Thus amended by L. 1879, chap. 117.)

[Section 6 of revision, without change of substance.]

§ 3. The authority given by the "Act concerning the acquisition of burial places by religious corporations in the city of New York," passed April eleventh, eighteen hundred and forty-two, to purchase, acquire, and hold land for the purpose of a burial-ground or cemetery, and to erect thereon suitable buildings for purposes connected with the burial of the dead, is hereby extended to religious corporations in every part of the state; and such purchases heretofore made or hereafter made in the city of New York or elsewhere, and the erection of buildings thereon, as authorized by the said act, are hereby confirmed and declared valid, notwithstanding any restriction contained or supposed to be contained in the "Act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, or in any special charter of any such corporation.

[Section 7 of revision, without change of substance.]

(Laws 1852, ch. 203, amends L. 1839, ch. 174.)
(Laws 1853, ch. 323; R. S. 8th ed., 1898.)

Section 1. Any religious corporation incorporated under the laws of this state may make the application for a change of its corporate name in the manner provided in the act entitled "An act to authorize persons to change their names," passed December fourteen, eighteen hundred and forty-seven, which application shall be made to any of the officers designated in the first section of said act, within the county in which said corporation was so originally incorporated and is located, and upon such proceedings may obtain an order authorizing the assumption by such corporation of a new name, and upon fully complying with the requirements of said act shall be known by such new and assumed name, and by no other.

§ 2. The officer to whom such application shall be made shall also be authorized to grant an order allowing any such religious corporation to assume such other and new name, not previously assumed by any other existing religious corporation, on being satisfied by the petition presented to him therefor, verified by oath or by affidavit, that the name of such corporation, by reason of the change of its location or place of worship, or of the name of the place in which its place of worship is situated, or any other change of the circumstances with reference to which its name was adopted, has become incongruous or inconvenient, or that the location or character of such corporation will be more correctly or effectually designated by such change of name.

[Covered by Civil Code, section 2411ff.]

(Laws 1860, ch. 235, amends L. 1813, ch. 60.)
(Laws 1863, ch. 45; R. S., 8th ed., 1889.)

Section 1. The act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, is hereby amended by adding thereto the following provisions:

1. It shall be lawful for any Roman Catholic church or congregation now or hereafter existing in this state, to be incorporated according to the provisions of this act; the Roman Catholic archbishop or bishop of the diocese in which such church may be erected or intended so to be, the vicar-general of such diocese and the pastor of such church for the time being, respectively, or a majority of them, may select and appoint two laymen, members of said church, and may, together with such laymen, sign a certificate, showing the name or title by which they and their successors shall be known and distinguished as a body corporate by virtue of this act, which certificate shall be duly acknowledged or proved, in the same manner as conveyances of real estate; and one of such certificates shall be filed in the office of the secretary of state, and the other in the office of the clerk of the county in which such church may be erected or intended so to be; and thereupon such church or congregation shall be a body corporate, by the name or title expressed in such certificate, and the said persons so signing the same shall be the trustees thereof. The successors of any such archbishop, bishop, vicar-general, or pastor respectively, for the time being, shall by virtue of his office, be the trustee of such church, in place of his predecessor; and such laymen shall hold their office respectively for one year. and whenever the office of any such laymen shall become vacant by death, removal, resignation or otherwise, his successor shall

be appointed in the same manner as herein provided for his original selection.

[Sections 50-51 of revision, without change of substance.]

2. The trustees of every such church or congregation, and their successors, shall have all the powers and authority granted to the trustees of any church, congregation or society, by the fourth section of the act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, and shall also have power to fix or ascertain the salary to be paid to any pastor or assistant pastor of such church, but the whole real and personal estate of any such church, exclusive of the church edifice, parsonage and schoolhouses, together with the land on which the same may be erected, and burying places, shall not exceed the annual value or income of three thousand dollars; but nothing herein contained shall be held or taken to repeal, alter or impair the effect of chapter three hundred and sixty of the laws of eighteen hundred and sixty.

[Section 51 of revision, without change of substance. The property limitation is omitted as covered by General Corporation Law, section 12.]

3. The trustees of any church incorporated under this act are required to exhibit, upon oath, to the supreme court in the judicial district in which the church is situated, once in three years, an inventory of all the estate, real and personal, belonging to such church, and of the annual income thereof, which inventory shall be filed in the office of the clerk of the county in which such building is situated.

[The exhibition of accounts is not required by revision, but a judicial inquiry as to amount of property, etc., of corporation is provided by section 13.]

4. Whenever any church incorporated under this act shall be dissolved, by means of any non-user or neglect to exercise any of the powers necessary for its preservation, or otherwise, the same may be reincorporated in the mode prescribed in this act, within six years from the date of such dissolution, and thereupon all the property, real and personal, belonging to such dissolved corporation at the time of its dissolution, shall vest in such new corporation.

[Omitted as unnecessary.]

5. All conveyances to any church incorporated under this act, of any real estate heretofore appropriated to the use of said

church or the congregation thereof, or intended so to be, are hereby confirmed and declared valid and effectual.

§ 2. The legislature may at any time modify, alter or repeal this act.

[Statutory Construction Law, section 31, saves rights heretofore acquired under acts repealed by Religious Corporations Law, and section 10 of revision confirms conveyances made to the unincorporated church.]

(Laws 1866, ch. 414, amends L. 1813, ch. 60.)
(Laws 1866, ch. 447; R. S., 8th ed., 1899.)

Section 1. When any Reformed Presbyterian church or congregation shall, by resolution duly passed at meeting of the church or congregation, determine that the deacons of such church or congregation shall be the trustees for such church or congregation alone, then it shall be lawful for the deacons of every such church or congregation now or hereafter to be established in this State to be the trustees of every such church or congregation; provided that they shall have been elected according to the rules, constitution and usages of the Reformed Presbyterian church, and are actively engaged in the exercise of their office in said church or congregation. And it shall be lawful for the said trustees, if not already incorporated, to assemble together and proceed to incorporate themselves, in the mode prescribed in and by the act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, and the act entitled "An act supplementary to the act entitled 'An act to provide for the incorporation of religious societies,' passed April fifth, eighteen hundred and thirteen," passed April twelfth, eighteen hundred and twenty-two.

[Section 60 of revision authorizes Reformed Prebyterian church to determine whether to incorporate by elective system or by the system of choosing trustees provided by this law. If the ex-officio system is adopted, this law is substantially covered by section 62 of revision.]

(Laws 1867, ch. 265; R. S., 8th ed., 1919.)

Section 1. The presiding elder and a majority of the district stewards, appointed according to the discipline of the Methodist Episcopal church, residing in any ecclesiastical district in this State, erected by an annual conference of said church as a presiding elder's district, may make, sign and acknowledge, before

some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of any county in such district, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of said corporation; the names, residences and official relation to the district of the persons signing such certificate; the number of trustees, not less than three nor more than nine, who shall manage the property and affairs of said corporation for the first year, and their names; and in which certificate it shall be further stated, in substance, that the object of such corporation is to secure the benefits of this act.

§ 2. When such certificate shall be filed as aforesaid, the persons who shall have made, signed and acknowledged the same, and their successors, shall be and become a body politic and corporate, by the name stated in such certificate; and such corporation shall have succession, and possess the general powers conferred on corporations by the eighteenth chapter of the first part of the Revised Statutes of this State; and shall also have power to take, by gift, grant or purchase, any estate, real or personal, the annual income of which shall not exceed five thousand dollars, for the use of, and as a residence for the presiding elder for the time being, of said district; and shall also have power to take by gift, grant or purchase, any estate, real or personal, the annual income or value of which shall not exceed ten thousand dollars, for the use of the authorities of the said Methodist Episcopal church representing said district, as a camp-ground for camp-meeting purposes; and from time to time to sell and convey the same, and to reinvest the proceeds thereof for a like purpose, as the trustees of such corporation, with the approval of the annual conference having jurisdiction over the district, may direct. And all the provisions of article seven, title eight, chapter twenty, part first of the Revised Statutes of this State, entitled "Of the disturbance of religious meetings," shall apply to all religious meetings held in pursuance of the provisions of this act, in accordance with the usages of the said Episcopal Methodist church. And the trustees of any such camp-ground, appointed according to the provisions of the act hereby amended and for the purposes named in this act, and their successors in office, are hereby clothed with the same powers as are conferred upon peace officers in and by said article seven. (Thus amended by L. 1868, chap. 784.)

§ 3. Any real estate heretofore conveyed for the use of, or as a residence for a presiding elder of any such district, and his successors in office, or for comp-meeting purposes, may be conveyed, by the trustees holding the title thereof, to a corporation formed as aforesaid for the district in which such estate is situated;

whereupon the title thereto shall vest in such corporation for the purposes defined by this act. (Thus amended by L. 1868, chap. 784.)

§ 4. The district stewards of any presiding elder's district, at their annual meeting, may appoint, from time to time, trustees for any such corporation within their district, to supply the places of those whose terms shall expire, and to fill any vacancies in the number of such trustees; and trustees of any such corporation shall respectively hold their offices for one year, and until others are appointed in their places.

[Section 83 of revision, without material change.]

(Laws 1867, ch. 656, amends L. 1813, ch. 60.)
(Laws 1867, ch. 657; R. S., 8th ed., 1899.)

Section 1. Any religious corporations incorporated under the several acts to provide for the incorporation of religious societies, passed April sixth, seventeen hundred and eighty-four; March twenty-seventh, eighteen hundred and one; April fifth, eighteen hundred and thirteen; or by any special charter made or granted before or after July fourth, seventeen hundred and seventy-six, may purchase and hold grounds in the same village, town or city in which the church edifice belonging to such corporation is situated, for the purpose of erecting, and may erect and maintain thereon free churches or chapels; and also at the same time, or thereafter, may purchase and hold other grounds for the purposes of erecting, and may erect and maintain thereon, suitable school-houses for Sunday or parochial schools of the said free churches or chapels, and residences for the clergy and teachers in charge of or employed in such churches, chapels and schools; and also mission-houses for the temporary accommodation and relief of the poor, and free hospitals and asylums for the relief of the sick, aged and indigent, and dispensaries of medicine for the poor; or may hire or purchase and hold such grounds, with suitable buildings, already erected thereon, for the like purposes, notwithstanding any restriction contained in the said act or in any such charter; and the vestry or trustees of such religious corporation may take the control and management of such free churches or chapels, schools or mission-houses, asylums, dispensaries and hospitals, and may appoint or employ clergymen, teachers and others, officers or persons, to take the charge and management thereof.

§ 2. The seats and pews in every church or chapel erected by any religious corporation under the provisions of this act shall be forever free for occupation and use during public worship, of all persons conducting themselves with propriety under such

rules and regulations as may be established therefor by the parent church; and no rent, charge or exaction shall ever be made or demanded for such occupation or use.

§ 3. Persons attending public worship in such churches or chapels, or otherwise claiming in any manner to be connected therewith, shall not by reason of such attendance, or claim of any kind, be entitled to vote at the annual elections for church wardens and vestrymen, or trustees, of the religious corporation by which such churches or chapels shall have been erected and maintained, and shall not have any right, claim or demand as corporators in said parent church.

[Section 6 of revision, except that section 2 is not re-enacted.]

(Laws 1868, ch. 784, amends L. 1867, ch. 265.)
(Laws 1868, ch. 803, except sections 2 and 4 omitted as unnecessary, amends L. 1813, ch. 60.)
(Laws 1869, ch. 171; not in R. S., 8th ed.)

[This act limits the amount of property which the general synod of the Reformed Protestant Dutch church may hold, and is superseded by General Corporation Law, section 12.]

(Laws 1871, ch. 12; R. S., 8th ed., 1890.)

Section 1. The act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, is hereby amended by adding thereto the following provisions:

1. It shall be lawful for any church or congregation of the "Christian Orthodox Catholic Church of the Eastern Confession," now or hereafter existing in this State, to be incorporated according to the provisions of this act. The envoy extraordinary and minister plenipotentiary of Russia to the United States, and the consul-general of Russia to the United States, then acknowledged and received as such by the government of the United States, may sign a certificate in duplicates, showing the name or title by which they and their successors shall be known and designated as a body corporate by virtue of this act, which certificate shall be duly acknowledged or proved in the same manner as conveyances of real estate; and one of such certificates shall be filed in the office of the secretary of state, and the other in the office of the clerk of the county in which such church may be erected or intended so to be; and thereupon such church or congregation shall be a body corporate, by the name or title expressed in such certificate, and the persons so signing the same shall be the trustees thereof. The successors in office

of such envoy extraordinary and minister plenipotentiary and consul general for the time being acknowledged and received as aforesaid, shall by virtue of their office be the trustees of such church, in place of their predecessors.

[Sections 50 and 51 of revision, without change of substance.]

2. The trustees of every such church or congregation, and their successors shall have all the powers and authority granted to the trustee or trustees of any church, congregation or society, by the fourth section of the act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, and shall also have power to fix or ascertain the salary to be paid to any pastor or assistant pastor of such church appointed or commissioned according to the rules and regulations of such church, but the whole real and personal estate of any such church, exclusive of the church edifice, parsonage and school-houses, together with the land on which the same may be erected, and burying place, shall not exceed the annual value or income of three thousand dollars; but nothing herein contained shall be held or taken to repeal, alter or impair the effect of chapter three hundred and sixty of the laws of eighteen hundred and sixty.

[Section 51 of revision, without change of substance. The property limitation is omitted as covered by General Corporation Law, section 12.]

3. The trustees of any church incorporated under this act, are required to exhibit, upon oath, to the supreme court in the judicial district in which the church is situated, once in three years, an inventory of all the estate, real and personal, belonging to such church, and of the annual income thereof, which inventory shall be filed in the office of the clerk of the county in which such building is situated.

[The exhibition of accounts is not required by revision, but a judicial inquiry as to amount of property, etc., of corporation is provided by section 13.]

4. Whenever any church incorporated under this act shall be dissolved, by means of any nonuser or neglect to exercise any of the powers necessary for its preservation or otherwise, the same may be reincorporated in the mode prescribed in this act, within six years from the date of such dissolution, and thereupon all the property, real and personal, belonging to such dis-

solved corporation, at the time of its dissolution, shall vest in such new corporation.

[Omitted as unnecessary.]

5. All conveyances to any church incorporated under this act, of any real estate heretofore appropriated to the use of such church or the congregation thereof, or intended so to be, are hereby confirmed and declared valid and effectual, but nothing herein shall affect any suit or proceedings now pending involving the right or title to any property so conveyed.

§ 2. The legislature may at any time modify, alter or repeal this act.

[Statutory Construction Law, section 31, saves rights heretofore acquired under acts repealed by Religious Corporations Law, and section 10 of revision confirms conveyances to the unincorporated church.]

(Laws 1871, ch. 776; R. S., 8th ed., 1900.)

Section 1. Any religious corporation within this State, created by any special charter, shall, notwithstanding such charter, have all the powers and authority given to any trustees, congregations, or societies incorporated under the act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, or any act amendatory thereof or supplementary thereto, and the property required for any school-house or dwelling-house for the use of a minister, shall not be included in the estimate of the value of the property to the possession of which such corporation may be restricted.

[Section 16 of revision, without change of substance.]

(Laws 1874, ch. 26; R. S. 8th ed., 1920-1.)

Section 1. The presiding elder of any district, or the presiding elders of any number of districts, and a majority of the district stewards of any district or districts, appointed according to the discipline of the Methodist Episcopal church, residing in any ecclesiastical district or districts in this State erected by an annual conference of said church as a presiding elder's district or districts, may make, sign, and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of any county in such district or districts, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of

said corporation; the names, residences and official relation to the district of the person signing such certificate, the number of trustees not less than three nor more than nine, who shall manage the property and affairs of said corporation for the first year, and their names; and in which certificate it shall be further stated, in substance, that the object of such corporation is to secure the benefits of this act.

§ 2. Whenever in forming any corporation under this act a greater number of trustees than nine shall be desired, the number of trustees shall be specified in the articles of incorporation, which shall be not less than nine nor more than twenty-one, and shall specify in said articles, the names of the persons as trustees to manage the affairs of said corporation until others are elected in their places; said trustees shall be divided by lot into three classes, the first class to hold their office for one year; the second class to hold their office for two years; the third class to hold their office for three years. The said corporation, when organized, and any camp-ground or camp-meeting association heretofore organized under the laws of the State of New York, shall have power to adopt a constitution, and to prescribe rules and regulations not inconsistent with the constitution and laws of the State or of the Unitel States, for the government thereof and for the election of trustees and its officers. One-third of the trustees shall be annually elected and vacancies filled in such manner as the constitution of said corporation shall prescribe. When the camp-grounds proposed to be selected by such corporation shall be situated upon or near the borders of this State, persons residing out of the jurisdiction of this State may be permitted to join in and become members of said corporation, and shall be eligible to be elected officers thereof. When the number of trustees do not exceed nine, or no constitution is adopted by the corporation prescribing the mode of elections of its trustees and officers, then the district stewards of any presiding elder's district, at their annual meeting, may appoint, from time to time, trustees for such corporation, within their district to supply the places of those whose terms of office shall expire and to fill vacancies in the number of trustees. And when two or more districts join in such corporation, then the district stewards of each district at their annual meeting, may appoint their equal proportion of said trustees. But in case the number of trustees can not be equally divided between the districts, then the districts in which the camp-ground is located may appoint such trustees. (Thus amended by L. 1875, chap. 325.)

§ 3. When such certificate shall be filed, as aforesaid, the persons who shall have made, signed and acknowledged the same,

and their successors, shall be and become a body politic and corporate, by the name stated in such certificate; and such corporation shall have succession, and possess the general powers conferred on corporations by the eighteenth chapter of the first part of the Revised Statutes of this State; and shall also have power to take, by gift, grant or purchase, any estate, real or personal, the annual income of which shall not exceed twenty-five thousand dollars, for the use of the authorities of the Methodist Episcopal church, representing said district or districts, as a camping-ground for camp-meeting purposes; and from time to time to sell and convey the same, and to reinvest the proceeds thereof for a like purpose, as the trustees of such corporation, with the approval of the annual conference having jurisdiction over the district or districts, may direct. And all the provisions of article seven, title eight, chapter twenty, part first of the Revised Statutes of this State, entitled, "of the disturbance of religious meetings," shall apply to religious meetings held in pursuance of this act, in accordance with the usages of said Methodist Episcopal church. And the trustees of any such camp-ground appointed according to the provisions of this act, and for the purpose named in this act, and their successors in office, are hereby clothed with the same powers as are conferred upon peace officers in and by said article seven.

§ 4. Any real estate heretofore conveyed for camp-meeting purposes may be conveyed, by the trustees holding the title thereof, to a corporation formed as aforesaid, whereupon the title thereto shall vest in such corporation for the purpose defined in this act.

§ 5. Districts may unite with such corporation by conforming to this act and appending their certificates to the original ones.

[Section 17 of revision, simplified, without material change.]

(Laws 1874, ch. 37; R. S., 8th ed., 1902.)

Section 1. Any two religious corporations incorporated under the provisions of the third section of the act entitled "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, and the several acts amendatory thereof or supplemental thereto, are hereby authorized to unite and consolidate themselves into a single corporation in the manner following:

§ 2. The said two corporations may enter into an agreement under their respective corporate seals for the union and consolidation of the said corporations, setting forth the terms and conditions thereof, the name of the proposed new corporation, the

names of the persons who shall be its church wardens and vestrymen, minister, elders and deacons or trustees, or other officers, as the case may be, until the first annual election of the proposed new corporation, and fixing the day of its annual election.

§ 3. Each of the said corporations may make its separate petition to the supreme court for an order for such union and consolidation, setting forth in such petition the reasons for such union, and consolidation, the agreement made pursuant to the second section of this act, all its property, real and personal, all its debts and liabilities, and the amount and sources of its annual income.

§ 4. A meeting of each of said two corporations to consider and act upon the proposed union and consolidation, and the agreement and petition therefor, shall be called by a notice given in the same manner, and for the same length of time, as is provided for notices of election of trustees in the said third section of the act hereby amended; and in case the proposed union and consolidation, and the agreement and petition therefor shall receive the approval of three-fourths of the persons entitled to vote at an election of trustees of each of the two corporations, assembled at such meeting, or at an adjourned meeting, or a subsequent meeting called in like manner, then, and not otherwise, the proposed union and consolidation may be proceeded with and the petition presented to the court.

§ 5. Upon such petitions from each of such corporations so proposing to be united and consolidated, and upon the said agreement, and the proceedings of the meetings prescribed in the fourth section, satisfactorily proved or certified, the supreme court may, in case it shall deem it proper, make an order for the union and consolidation of such corporations, determining all the terms, conditions and provisions thereof. All parties interested therein may be heard on such petition.

§ 6. When such order is made and entered, according to the practice of the court, the said two corporations shall be united and consolidated into one corporation by the name designated by the order, and it shall have all the rights and powers, and be subject to all the obligations of religious corporations under the act to which this is supplementary, and the acts amendatory thereof and supplementary thereto.

§ 7. And thereupon all the estate, rights and property of whatsoever nature belonging to either of said two corporations shall, without further act or deed, be vested in and transferred to the new corporation as effectually as they were vested in or belonged to the former corporations, and the said new corporation shall be liable for all the debts and liabilities of the former corpora-

tions, in the same manner and as effectually as if said debts or liabilities had been contracted or incurred by it.

[Section 12 of revision. See note to that change.]

(Laws 1875, ch. 79; R. S., 8th ed., 1903.)

Section 1. Trustees elected under the provisions of section three of chapter sixty of the laws of eighteen hundred and thirteen, entitled "An act to provide for the incorporation of religious societies," shall hold their offices during the term for which they were elected, and until their successors are chosen. And that whenever hereafter any church, congregation, or society, incorporated under and by virtue of the provisions of section three of chapter sixty of the laws of eighteen hundred and thirteen, may desire to alter the time of the election of its trustees, or to alter the dates upon which the terms of office of such trustees shall begin and end, such church, congregation, or society may make such change or alteration; and at any regular meeting of the members of such church, congregation, or society, by a resolution of a majority of such members present and voting, may fix and prescribe the time when such election of trustees shall take place, or the dates when the terms of office of such trustees shall respectively begin and end; but the same previous notice of such meeting, and the object thereof, must be given that is now required by law for a meeting at which the election of trustees is to take place; provided that nothing in this act shall effect trustees already elected, and that nothing herein contained shall be construed to permit an election of trustees for a longer period than is now allowed by law. (Thus amended by L. 1879, chap 463.)

[Section 86 of revision provides for changing date of annual election. That the trustees shall hold until successors are elected, is covered by General Corporation Law, section 23, Provisions for notice of annual meetings are in section 81 of revision.]

§ 2. Whenever a trustee elected under the provisions of said section three of the above-mentioned act ceases to be a member of the church, congregation or society, by removal or otherwise, or ceases to statedly attend upon and support its services, he shall at the same time, and for such cause, cease to be a trustee, and his place shall be declared vacant by a notice of the board of trustees to the church, congregation or society, and said church, congregation or society, shall proceed to fill the vacancy, as provided for in the above-mentioned act.

[Section 89 of revision, without change of substance.]

§ 3. Any religious society, organized under the laws of this State, may take and receive by bequest or devise any real or personal estate, the net annual income of which shall not exceed twelve thousand dollars, subject, however, to the provisions of chapter three hundred and sixty of the laws of eighteen hundred and sixty, entitled "An act relating to wills." (Thus amended by L. 1875, chap. 443.)

[Omitted, General Corporation Law, section 12, authorizes religious corporations to hold property the annual income of which does not exceed $500,000.]

§ 4. The trustees of any church, congregation or religious society, incorporated under said section three of the above-mentioned act, shall administer the temporalities thereof, and hold and apply the estate and property belonging thereto, and the revenues of the same, for the benefit of such corporation, according to the discipline, rules and usages of the denomination to which the church members of the corporation belong; and it shall not be lawful for the trustees to divert such estate, property or revenues to any other purpose except toward the support and maintenance of any religious, benevolent or other institution connected with such church, congregation or religious society.

[Section 5 of revision, without change of substance.]

§ 5. Each and every of the corporations aforesaid may receive, use and apply all rents or incomes derived from pews, in addition to the annual income limited by the aforesaid act, or any amendment thereof.

§ 6. The jurisdiction of courts of equity in this State is hereby extended over such corporations, so far as may be necessary to enforce the provisions of this act.

§ 7. No religious corporation shall be deemed to be dissolved for any neglect hitherto to exhibit an account or inventory of its real and personal estate and the annual income thereof, provided that such account or inventory shall be exhibited within three years from the passage of this act.

[Sections 5, 6 and 7 are omitted. Section 5 is unnecessary in view of the broad provision of the General Corporation Law, section 12. No inventory and account is required to be filed, but a judicial investigation as to amount of property, etc., held by the corporation may be instituted pursuant to section 13 of revision.]

(Laws 1875, ch. 209; R. S., 8th ed., 1904.)

Section 1. Any two or more religious corporations, incorporated under the provisions of the third section of chapter sixty of the laws of eighteen hundred and thirteen, entitled "An act to provide for the incorporation of religious societies," and the several acts amendatory thereof or supplementary thereto, are hereby authorized to unite and consolidate themselves into a single corporation in the manner following:

§ 2. The said corporations may enter into an agreement under their respective corporate seals for the union and consolidation of the said corporations, setting forth the terms and conditions thereof, the name of the proposed new corporation, the names of the persons who shall be its church wardens and vestrymen, minister, elders and deacons or trustees, or other officers, as the case may be, until the first annual election of the proposed new corporation, and fixing the day of its annual election.

§ 3. Each of the said corporations may make its separate petition to the supreme court for an order for such union and consolidation, setting forth in such petition the reasons for such union and consolidation, the agreement made pursuant to the second section of this act, all its property, real and personal, all its debts and liabilities, and the amount and sources of its annual income.

§ 4. A meeting of each of said corporations, to consider and act upon the proposed union and consolidation and the agreement and petition therefor, shall be called by a notice given in the same manner and for the same length of time as is provided for notices of election of trustees in the said third section of the act hereby amended; and in case the proposed union and consolidation, and the agreement and petition therefor, shall receive the approval of three-fourths of the persons entitled to vote at an election of trustees of each of the corporations, assembled at such meeting, or at an adjourned meeting, or a subsequent meeting called in like manner, then, and not otherwise, the proposed union and consolidation may be proceeded with, and the petition presented to the court.

§ 5. Upon such petition from each of such corporations so proposing to be united and consolidated, and upon the said agreement, and the proceedings of the meeting prescribed in the fourth section, satisfactorily proved or certified, the supreme court may, in case it shall deem it proper, make an order for the union and consolidation of such corporations, determining all the terms, conditions and provisions thereof. All parties interested therein may be heard on such petition.

§ 6. When such order is made and entered, according to the practice of the court, the said corporation shall be united and consolidated into one corporation, by the name designated in the

order, and it shall have all the rights and powers, and be subject to all the obligations of religious corporations under the act to which this is supplementary, and the acts amendatory thereof and supplementary thereto.

§ 7. And thereupon all the estate, rights and property of whatsoever nature, belonging to either of said corporations, shall, without further act or deed, be vested in and transferred to the new corporation as effectually as they were vested in or belonged to the former corporations, and the said new corporation shall be liable for all the debts and liabilities of the former corporations, in the same manner and as effectually, as if said debts or liabilities had been contracted or incurred by it.

[Section 12 of revision. See note to that section.]

(Laws 1875, ch. 325; R. S., 8th ed., 1921.)

[Section 1 amends L. 1874, ch. 26.]

§ 2. All restrictions imposed upon such corporations heretofore organized under any law of this State relating to the amount of real or personal estate, or the value thereof, which such corporation may hold, are hereby removed, provided the entire annual income shall not exceed the sum authorized by section three of the act hereby amended, unless by their charters they are empowered to hold a larger amount. Whenever any camp-ground association shall own land on any of the navigable waters of the State of New York, to be used for camp-ground purposes only, the said association shall have authority to regulate the landing of any person or vessel on said wharves, piers or shore, during the holding of religious services, and may also regulate or prohibit the use of said wharves and piers, or shore during said services by any person or vessel.

[The first sentence is omitted, as superseded by General Corporation Law, section 12. The latter part of section is in section 17 of revision, without change of substance.]

(L. 1875, ch. 354, amends L. 1826, ch. 47.)
(Laws 1875, ch. 381; R. S., 8th ed., 1905.)

Section 1. It shall be lawful for any presbytery, now or hereafter to be constituted or established, not already incorporated, at any stated meeting thereof, by plurality of voices, to elect any number of discreet persons, not less than three nor exceeding nine in number, as trustees to take charge of the estate and property belonging thereto, and to transact all affairs relating to the temporalities thereof. And the moderator and stated clerk of

said presbytery, shall immediately thereafter certify, under their hands and seals, the names of the persons elected as trustees for such presbytery, in which certificate the name or title, by which the said trustees and their successors shall forever thereafter be called or known, shall be particularly mentioned and described; which said certificate being duly acknowledged or proved before an officer authorized by law to take the proof or acknowledgment of deeds of real estate by said moderator and stated clerk, shall be recorded by the clerk of one of the counties situated wholly or in part, within the bounds of said presbytery, in the book where the said clerk is required by law to record certificates of the organization of religious societies, and such trustees and their successors shall thereupon by virtue of this act, be a body corporate by the name or title expressed in such certificate.

[Section 14 of revision, except that the members of the governing body instead of the trustees are made the corporation. Section 3 of revision provides for filing and recording certificates.]

§ 2. The said corporation shall, in law, be capable of taking for religious, educational and charitable purposes, by gift, devise, bequest, grant, or purchase, and of holding, conveying and otherwise disposing of the same from time to time, all real and personal estate held for the benefit of any such presbytery at the time the same shall become incorporated or which had then been or may thereafter, for the purpose of any such presbytery and in the promotion of its religious, educational or charitable purposes, be given, devised, bequeathed or granted to any such corporation by its name or for the religious, educational and charitable use thereof, or which may, in any manner, have accrued or shall accrue from the interest, income, or use of such real or personal estate, provided, that the yearly income received from the property of any such corporation shall not exceed the sum of ten thousand dollars.

[Section 11, General Corporation Law, authorizes every corporation to take and hold property for its uses and objects. Section 4 of revision, provides for the vesting of the temporalities and property of the unincorporated governing body in the incorporated one. The property limitation is omitted as superseded by General Corporation Law, section 12.]

§ 3. Whenever any church in connection with any such presbytery, shall become extinct, by reason of the death or removal of its members, it shall be lawful for such corporation to take possession of the temporalities belonging to the society formed in con-

nection with such extinct church and manage or dispose of the same, and apply the proceeds thereof to any of the objects mentioned in the second section of this act. The presbytery to which the church belongs shall determine when any church is extinct, provided that no church having more than nine resident members shall be declared extinct, unless it has failed, for three consecutive years to maintain the stated preaching of the gospel. (Thus amended by L. 1877, chap. 177).

[Section 15 of revision, without material change.]

§ 4. The management and disposal of affairs and property of such corporation shall be in the hands of the trustees thereof; and which trustees shall hold their office at the pleasure of the presbytery electing them, and all vacancies shall be filled by the presbytery.

[Section 14 of revision, without change of substance.]

(Laws 1875, ch. 408; R. S., 8th ed., 1906.)

Section 1. In all cases now existing or which may hereafter exist, in which any priest, clergyman or minister of the gospel shall serve or minister to two or more churches, congregations or religious societies, incorporated under the provisions of the act entitled, "An act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, and the acts amendatory thereof, it shall be lawful for such churches, congregations or religious societies to have, hold and own a lot or lots or farm, with such building or buildings thereon, as the said churches, congregations or religious societies may deem necessary or proper for the use of such priest, clergyman or minister of the gospel, as shall serve or minister to such churches, congregations or religious societies, to be occupied and used by such priest, clergyman or minister of the gospel as a parsonage, during the time he shall serve or minister to such churches, congregations or religious societies.

§ 2. After the passage of this act, the said churches, congregations or religious societies shall have power to elect three trustees, each being a member of one of said churches, congregations or religious societies, to be denominated parsonage trustees, to take and hold the title to such lot or lots or farm as may be purchased for parsonage purposes, as trustees of and for the use and benefit of said churches, congregations or religious societies.

§ 3. The priest, clergyman or minister of the gospel so serving or ministering to such churches, congregations or religious

societies, shall designate some day, other than Sunday, and the hour of the day when the election of the first trustees shall be held at the place where each of such churches, congregations or religious societies statedly meets for worship. Notice of the time of holding such election shall then be given to each of such churches, congregations or religious societies, in the manner prescribed by the third section of the act above mentioned. Notice shall be given at the same time and in the same manner, of the place where the board of canvassers, created by this act, to canvass the votes given at the election for trustees. At the time so appointed for such election, said churches, congregations or religious societies shall, by a plurality of voices, elect one of their members chairman of such meeting, and the clerk of such church, congregation or religious society, if present, shall be clerk of such meeting; but if such clerk shall be absent, then such church, congregations or religious societies shall, by plurality of voices, elect one of their members clerk for the time being.

§ 4. Said election of trustees shall be by ballot, and the three persons for whom the highest number of ballots shall be cast shall be the first trustees. The chairman of each of such meetings shall preside thereat, receive the ballots, preserve order and see that the business before the meeting is conducted in an orderly and legal manner. The clerk of each meeting shall keep a record of the proceedings thereof, and also a poll-list containing the names of all the persons who shall vote at such election. All persons who shall be entitled to vote for trustees of such church, congregation or religious society, may lawfully vote at such election, and no others. The chairman and clerk of each meeting shall canvass the votes cast at such election, and make and sign a certificate thereof, setting forth the time and place at which such election was held, the whole number of votes cast, the names of all persons voted for, and the number of votes given for each.

§ 5. The chairman of any or either of such meetings may, by a writing, signed by him, appoint the clerk of such meeting a canvasser in his place and stead. Such chairmen as do not appoint the clerk a canvasser in his stead, and such clerks as shall or may be appointed canvassers as above mentioned, shall meet at the place designated in the notice given for such election, on the day following such election, at three o'clock in the afternoon of that day, and shall form themselves into a board of canvassers by the election of one of their number chairman of said board, and another one of their members secretary of said board, and shall then, from all the certificates of the elections held the day before, ascertain the whole number of votes cast for parsonage trustees, the names of all the persons voted for,

and the number of votes given for each, and shall declare the three persons having the largest number of votes elected trustees. They shall then proceed to divide said trustees, by lot, into three classes, one of whom shall hold the office for one year, one for two years and one for three years; and thereafter one parsonage trustee shall be elected each year, at the time and in the manner and upon the notice prescribed for the election of the first parsonage trustees. They shall then designate the name by which such parsonage trustees shall be known and called, as the parsonage trustees of a certain circuit, naming it, or of a certain place, naming it, and its vicinity.

§ 6. The secretary of said board of canvassers shall keep a record of all the proceedings of said board in a book to be provided for that purpose, and shall also file and preserve all certificates of election on which such board shall act. He shall also make a certificate of the election of the persons chosen trustees, of their classification and the time each is to serve, which shall be signed by the chairman of such board and by such secretary and shall be acknowledged by them in such manner as deeds are by law required to be acknowledged to entitle them to be recorded. Such certificate and acknowledgment shall then be recorded in the office of the clerk of the county or counties in which any one of such churches, congregations or religious societies may be located.

§ 7. Upon the recording of such certificate the said trustees and their successors shall be a body politic and corporate, by the name stated in such certificate; and by that name they and their successors shall and may have succession, and shall be capable in law, of suing and being sued, and may have and use a common seal, and may alter and change the same at pleasure; and by their corporate name be capable of receiving, purchasing and holding for the use and benefit of said churches, congregations or religious societies such real and personal estate as such churches, congregations or religious societies may deem necessary or proper to purchase for the use of the priest, clergymen or ministers of the gospel, who shall serve or minister to them as aforesaid, and to manage, improve, protect and preserve said property.

§ 8. In case it shall happen that an election of trustees shall not be held on the day designated for such election, the corporation shall not for that reason be dissolved, but such election may be held on some other day, by giving notice of such election in the manner prescribed for the first election of trustees, but the time of service of the trustee so elected shall expire at the same time his term would have expired in case he had been elected at the proper time.

§ 9. In case of the death or removal from the county of any one or more of said trustees, the remaining trustees or trustee may, by writing under their or his hand and seal, appoint a trustee or trustees in the place and stead of the trustee or trustees so dying or removing from the county, until the time appointed for the next election, when a trustee or trustees shall be elected in the place or places of him or them so dying or removing, in the same manner as other trustees are required to be elected.

[Section 9 of revision. For changes, see notes to that section.]

(Laws 1875, ch. 443, amends L. 1875, ch. 79.)
(Laws 1875, ch. 597, amends L. 1813, ch. 60.)
(Laws 1876, ch. 110; R. S., 8th ed., 1908.)

Section 1. It shall be lawful for any diocesan convention, presbytery, classis, synod, annual conference, or other governing body having jurisdiction over a number of churches, congregations or societies of any church or religious denomination in this State, now or hereafter to be constituted or established, and not already incorporated, at any stated meeting thereof, by a plurality of voices, to elect any number of discreet persons, not less than three nor exceeding nine in number, as trustees to take charge of the estate and property belonging thereto, and to transact all affairs relating to the temporalities thereof. The presiding officer and clerk of such governing body shall immediately thereafter certify, under their hands and seals, the names of the persons elected as trustees as aforesaid, in which certificate the name or title by which the said trustees and their successors shall be known, shall be particularly mentioned, which said certificate, being duly acknowledged by the said presiding officer and clerk, shall be recorded by the clerk of one of the counties situated in whole or in part within the bounds of the jurisdiction of such governing body, or in the book kept for the record of religious corporations; and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate.

[Section 14 of revision, except that the members of the governing body, instead of the trustees, are made the corporation. Section 3 of revision provides for filing and recording certificates.]

§ 2. Such trustees shall be capable of taking for religious, educational and charitable purposes, by gift, devise, bequest, grant or purchase, and of holding and disposing of the same,

any real and personal estate held for the benefit of any such governing body, or of any parish, congregation, society, church, chapel, mission, religious, benevolent, charitable or educational institution, existing or acting under such governing body at the time of their election, or which had then or may thereafter be given for any such purposes, provided that the net yearly income received from the said property shall not at such time exceed the sum of twenty-five thousand dollars.

[Section 11 of General Corporation Law, authorizes every corporation to take and hold property for its uses and objects. Section 4 of revision, provides for the vesting of the temporalities and property of the unincorporated governing body in the incorporated one. The property limitation is omitted as superseded by General Corporation Law, section 12.]

§ 3. Whenever any church, parish or religious society, in connection with any such governing body, shall become extinct, by reason of the death or removal of its members, or for any other cause, it shall be lawful for the trustees elected by such governing body, as aforesaid, to take possession of the temporalities belonging to such extinct church or society, and manage, sell or dispose of the same, and apply the proceeds thereof to any of the objects or purposes mentioned in the second section of this act. It shall not be lawful for said trustees to divert said property to any other object. The governing body to which such church or society belongs shall determine when any church or society has become extinct, or has ceased to maintain religious services for two consecutive years (as is customary in said governing body) provided that no church or society having more than thirteen resident attending male members, each of whom has annually paid pew rent, or annual contributions toward the support of the church or society the last two years, shall be declared extinct, except it has failed to maintain religious service for two consecutive years, according to the customs and usages of the governing body to which such church or society belongs. (Thus amended by L. 1882, chap. 23, superseding L. 1880, chap. 55.)

[Section 15 of revision, without material change. See note to that section.]

§ 4. The trustees elected by virtue of this act shall hold their offices at the pleasure of the governing body by whom they are

elected, and all vacancies shall be filled by such body as they occur.

[Section 14 of revision, without change of substance.]

(Laws 1876, ch. 176; R. S., 8th ed., 1909.)

Section 1. The rector, wardens and vestrymen or the trustees, consistory or session of any church, congregation or religious society, incorporated under any of the laws of this State, shall administer the temporalities thereof and hold and apply the estate and property belonging thereto, and the revenues of the same, for the benefit of such corporation according to the rules and usages of the church or denomination to which said corporation shall belong; and it shall not be lawful to divert such estate, property or revenue to any purpose, except the support and maintenance of any church or religious or benevolent institution or object connected with the church or denomination to which such corporation shall belong.

[Section 5 of revision, without change of substance.]

§ 2. Each and every of the corporations aforesaid may receive, use and apply all rents and income derived from pews of their respective churches, in addition to the annual income limited by any statute now in force relating thereto.

[Omitted as superseded by General Corporation Law, section 12.]

§ 3. Any two or more of the corporations, aforesaid, are hereby authorized to unite and consolidate themselves into a single corporation of the denomination to which at least one of such corporations shall belong, in the manner following: The said corporations may enter into an agreement under their respective corporate seals, for the union and consolidation of the said corporations, setting forth the terms and conditions thereof, the name of the proposed new corporation, the church or denomination to which it shall belong, the names of the persons who shall be the church wardens and vestrymen, or elders and deacons or trustees, or other officers as the case may be, until the first annual election of the proposed new corporation, and fixing the day of such election. But in the case of the Protestant Episcopal churches, no such agreement shall be valid unless approved by the bishop and standing committee of the diocese in which such churches are situated; and in case of Presbyterian churches a union under this act shall not be valid unelss approved by the presbytery with which such churches are connected. Each of

the said corporations may make its separate petition to the supreme court in the judicial district in which such corporations are situated, for an order for such union and consolidation; setting forth in such petition the reason for such union and consolidation, the agreement made as hereinbefore provided, and a statement of all its property, real and personal; all its debts and liabilities, and the amount and sources of its annual income. Upon such petition from each of such corporations so proposing to be united and consolidated, and upon the said agreement satisfactorily proved or certified, the supreme court may, in case it shall deem it proper, make an order for the union and consolidation of such corporations, determining all the terms and conditions and provisions thereof. All parties interested therein may be heard on such petition. When such order is made and entered according to the practice of the court, the said corporations shall be united and consolidated into one corporation by the name designated in the order, and it shall have all the rights and powers, and be subject to all the obligations of religious corporations under the act to which this is supplementary, and the acts amendatory thereof and supplementary thereto. (Thus amended by L. 1880, chap. 167.)

§ 4. And thereupon all the estate, rights and property, of whatsoever nature, belonging to either of said corporations, shall, without further act or deed, be vested in and transferred to the new corporation as effectually as they were vested in or belonged to the former corporations, and the said new corporation shall be liable for all the debts and liabilities of the former corporations, in the same manner and as effectually as if said debts or liabilities had been contracted or incurred by it.

[Section 12 of revision, without material change. See note to that section.]

(Laws 1876, ch. 329; R. S., 8th ed., 1910.)

Section 1. It shall be lawful for any Baptist church now organized, or that may hereafter be organized in this State, to secure the benefits of incorporation according to the provisions of this act.

[Section 80 of revision.]

§ 2. The members of any such church, of full age, and every person of full age who shall, for one year preceding, have been a paying pewholder or seatholder in the place of worship of said church, or shall have been during said year a yearly paying subscriber for the support of said church, may assemble at the

place of worship of said church, and by a majority of the votes of such persons elect three, six or nine of said qualified voters as a board of trustees, and such trustees and their successors shall be a body corporate by the title expressed in the certificate hereinafter required to be filed.

[Section 82 of revision. Section 83 of revision provides that the members and not the trustees become the corporation. See notes to §§ 82 and 83.]

§ 3. Public notice shall be given of the meeting for the first election of trustees under this act, and also of all subsequent meetings for the election of trustees, at one regular service of the church on each of the two Sundays next preceding such elections, the object, time and place of such meetings to be distinctly stated in such notices.

[Section 81 of revision, without change of substance.]

§ 4. The trustees thus elected shall be so divided by lot at the first election that one-third of them shall go out of office at the expiration of one year, one-third at the end of two years, and one-third at the end of three years; and thereafter the term of service of one-third of their number shall expire annually, and their place or places shall be filled by a new election, as provided in section third.

[Section 82 of revision provides for original election of trustees for one, two and three years, instead of a determination of terms by lot.]

§ 5. The trustees first elected shall file in the office of the clerk of the register of the county in which the church is located, a certificate of their election, duly signed by the chairman and secretary of the meeting at which said election took place, and thenceforth the board of trustees so organized shall be a body corporate by the name expressed in the certificate so filed. Such trustees shall hold regular meetings for business at such time and place as they may appoint, and special meetings may be called by any three of them; a majority of the whole number shall be a quorum for the transaction of business, and a majority of the votes cast on any question shall decide such question.

[The first sentence is covered by section 83 of revision, which makes the members, instead of the trustees, the corporation. See note to that section. Section 88 of revision authorizes two

trustees to call meeting. For quorum clause, see General Corporation Law, section 29.]

§ 6. Such trustees shall have and use a common seal, and may renew and alter the same at their pleasure, and shall take charge of the property of said church, both real and personal; transact all business relating to the renting of pews, the payment of the pastor's salary, and all the other temporalities of said church; but such trustees shall have no right to divert the property of said church from uses appointed by the church, or to settle or remove any pastor or minister of said church, or to change or determine his salary or compensation; or to fix or change the times, nature or order of the public or social worship of said church; or to alienate, sell or encumber the property of said church, or to incur debts beyond what may be necessary for the proper care, repairs and preservation of the property of said church, unless such authority is specially conferred by said church upon such trustees; and such authority to alienate, sell or incumber shall be valid only when approved by a majority present at a meeting of the persons qualified to vote for trustees, such meeting to be called as provided in section third of this act. In other respects the trustees shall have all the rights, powers and duties granted by law to trustees of religious corporations.

[Section 11 of General Corporation Law authorizes all corporations to have a seal. The remainder of the section is covered by the general terms of section 5 of revision. See note to that section.]

§ 7. Whenever a person elected trustee shall, for a term of six consecutive months, cease to attend and to support the worship of said church, his place may be declared vacant by an official notice of the board of trustees to the church, and a new election shall be ordered to fill such vacancy, as provided in section third of this act.

[Section 89 of revision, without change of substance.]

§ 8. In case any church previously enjoying the benefits of incorporation may have already reorganized under the provisions of the act hereby amended, or shall hereafter reorganize thereunder, the trustees elected at such reorganization shall be the legal successors of those elected under any previous law; and the latter shall at once convey to the former all the property

held by them in trust for said church, subject to the rights of all parties who may have acquired an interest therein. (Section 8 added by L. 1879, chap. 136.)

[See section 4 of revision.]

(Laws 1877, ch. 177, amends L. 1875, ch. 381.)
(Laws 1878, ch. 209, amends L. 1839, ch. 184.)
(Laws 1878, ch. 349; R. S., 8th ed. 1895.)

Section 1. Whenever the trustees of any church or religious corporation owning a burying-ground within this State shall by resolution determine that it is expedient to remove the human remains buried therein, it shall be lawful for them to proceed as follows: They shall, by notice read to the congregation on two successive Sundays, and posted at the principal door of the church for two weeks previously, and published for the same period of time in a newspaper published in the city, village or town where such burying-ground is located, or in case there is no newspaper published therein, then in a newspaper to be designated by the surrogate of the county in which such burying-ground is located, call a meeting of the pew-holders of such church for the purpose of considering the subject of such removal; and in such notice they shall state the time and place of such meeting and the purpose thereof. Such meeting shall be organized by electing a president and secretary by a majority of the pew-holders thereat. If three-fourths of the pew-holders present at such meeting shall vote in favor of such removal, the president and secretary of such meeting shall execute a certificate showing the proceedings of such meeting, which shall be proved or acknowledged in the same manner as deeds are required by law to be proved or acknowledged, and shall be recorded in the office of the register of the city or clerk of the county in which such burying-ground is situated, and no other consent shall be necessary or required to authorize such removal. (Thus amended by L. 1887, chap. 600.)

§ 2. Such removal shall be made by the trustees of such church, their agents and servants, at such time or times, and in such manner as the board of health in such town, village or city may direct. (Thus amended by L. 1887, chap. 600.)

§ 3. Such removal shall be made at the expense of such church or religious corporation, to any other burying-ground owned by them, in an appropriate manner, together with the tomb-stones proper thereto; and such tombstones shall be erected again at the place of removal over the appropriate remains in all cases where the same can be identified.

§ 4. The provisions of sections two and three of chapter two hundred and fifteen, of the laws of eighteen hundred and forty-two, shall not apply to any case in which the certificate mentioned in the first section of this act shall have been duly recorded.

[Re-enacted in section 8 of revision, without material change of substance.]

(Laws 1879, ch. 117, amends L. 1850, ch. 122.)
(Laws 1879, ch. 136, amends L. 1876, ch. 329.)
(Laws 1879, ch. 463, amends L. 1875, ch. 79.)
(Laws 1880, ch. 55, amends L. 1876, ch. 110.)
(Laws 1880, ch. 167, amends L. 1876, ch. 176.)
(Laws 1880, ch. 337, amends L. 1839, ch. 184.)
(Laws 1881, ch. 327; R. S., 8th ed., 1911.)

Section 1. Any union society incorporated under the provisions of the third section of chapter sixty of the laws of eighteen hundred and thirteen, entitled "An act to provide for the incorporation of religious societies," and the several acts amendatory thereof or supplemental thereto, are hereby authorized to do as hereinafter provided.

[Section 100 of revision provides for the incorporation of union churches, and is new, although such churches, it seems, could have incorporated, formerly, pursuant to section 3 of chap. 60 of Laws 1813.]

§ 2. Any such union society holding property belonging jointly to the several societies composing the same; but the sole right of occupancy being reserved to each of them, and the same to be in proportion to their interest in or the money originally paid by them; and it being provided that the trustees make such division of the time that each may have and enjoy all its rights and privileges. And should any one or more of the societies composing the same cease to exist and not be known in any of the ways hereinafter specified, namely: By holding business meetings and having a clerk or secretary, and keeping a list or registry of its members, or holding preaching, prayer or conference meetings, or any other religious services in keeping with the usages of the denomination to which it belongs, provided that at least five years have elapsed since any of these things have been done by either of said societies, the trustees in such case on notice and a request from any of the remaining societies asking for the redistribution of the time of occupancy, shall meet for that purpose and divide

the same among the remaining societies, in proportion to their original contributions, respectively, or if the division has been made, and in keeping wth these provisions, then the same is hereby legalized.

§ 3. Any one of the societies belonging to said union society that has or may hereafter build a church in the same village or neighborhood in which it holds its religious services shall not thereby lose or forfeit in any way any of its rights or privileges in said union society, and the maintaining of divine worship, or the contributing to its support, will be regarded the same as if the society held its meetings in the church of said union society.

§ 4. When any one of the societies has a greater interest in the occupancy than others, the number of trustees shall be odd; and the said trustees shall be elected from each of the societies in proportion to its interest in the same, as near as may be.

§ 5. Any notice necessary to be given by said union society, either for the election of trustees or any other purpose, and there being no services at the time in the union church so that said notice may be given, and there being a church, as set forth in section three of this act, the notice may be read from the desk thereof as the law provides, and the same be posted on the outer door of the union church at least fifteen days before the said meeting.

§ 6. Any society belonging to union society, that is incorporated and has built for itself a church, may call a meeting, giving notice of the object for which the same is called, and any one entitled to vote for trustees may vote at such meeting, and if two-thirds of all the votes taken are in favor of selling their interest and right of occupancy in union society, then the trustees are hereby authorized to sell the same; and may give title to and convey the same, provided the proceeds arising therefrom in all cases shall be used for the benefit of their church property.

[Sections 2-6 are re-enacted in section 101 of revision, without material change of substance.]

(Laws 1881, ch. 501; R. S., 8th ed., 1912.)

Section 1. Any incorporated religious society within the State of New York who now has, or may hereafter hold or acquire lands for the purpose of a burial place or cemetery, may sell lots or plats in such burial place or cemetery, upon such terms as may be agreed, subject to such conditions and restrictions as may be imposed upon the use of such lots or plats, by the rules and regulations now adopted, or hereafter to be adopted, by such religious corporation. The conveyance shall be executed under

the common seal of the corporation and shall be signed by a majority of the trustees of the corporation making such sale.

[Section 7 of revision, without change of substance.]

(Laws 1882, ch. 23, amends L. 1876, ch. 110.)
(Laws 1883, ch. 501; not in R. S., 8th ed.)

Section 1. Any of the churches in this State in connection with the Reformed church in America (until eighteen hundred and sixty-nine known as the Reformed Protestant Dutch church), that in accordance with section eight of the act passed April fifteen, eighteen hundred and thirty-five, and entitled "An act to amend the chapter of the ministers, elders and deacons of the Second Protestant Reformed Dutch church in the city of Albany," have removed the management of their temporal concerns from the hands of a consistory, and have committed the same to the care of a board of trustees distinct from that consistory, or who have, at the time of their organization, confided the management of their temporal concerns to a board of trustees distinct from the consistory, may, if the consistory and board concurrently so determine, at any time hereafter confide the management and care of the temporal concerns of the said church to the consistory; and such determination shall be reduced to writing, and signed by the president and secretary or clerk of said consistory, and by the president and secretary or clerk of said board, with the seal of the said corporation (if any) thereto affixed, and shall be acknowledged by the president of said consistory, before some person authorized to take the acknowledgment of deeds, and be recorded in the office of the county clerk of the county in which such church shall be situated, in the book of records relative to religious corporations, or other proper book of records. Then the said board shall by vote signify its desire to dissolve, and shall thereupon cease to exist; and the consistory of said church shall be the board of trustees of said church, as provided by section two of an act passed April fifth, eighteen hundred and thirteen, and entitled "An act to provide for the incorporation of religious societies."

[Section 64 of revision, without change of substance.]

(Laws 1884, ch. 198; R. S., 8th ed. 1896.)

Section 1. Any incorporated church or congregation in this State shall have power to take and hold any lot or lots in any burial-ground or cemetery connected with any such church or congregation, which may be conveyed or devised to them by the owners or proprietors thereof, and with power to restrict interments to such person or persons or class of persons as may for

that purpose be designated and prescribed in the conveyance or devise under which the said lot or lots shall be so taken or held.

§ 2. The said corporation may take and hold any grant, donation or bequest of property upon trust, to apply the same, or the income thereof, under the direction of the vestry or trustees, for the improvement or embellishment of any such burial-ground or cemetery, or lot therein, or for the erection, repair, preservation or renewal of any tomb, monument or gravestone, fence, railing or other erection, or for the planting and cultivation of trees, shrubs, flowers or plants in or around any cemetery lot, or for improving the said premises in any other manner or form consistent with the design and purpose of this act, according to the terms of such grant, donation or bequest.

§ 3. Nothing in this act contained shall be so construed as in any way to limit, alter or affect the rights and powers of said corporation to sell, convey or dispose of their lands in any manner now authorized by laws concerning the removal of cemeteries or burial-grounds.

[Section 7 of revision, without change of substance.]

(Laws 1885, ch. 431; R. S., 8th ed., 1917.)

Section 1. The American Congregational Union, incorporated under the laws of the State of New York to promote the erection of Congregational churches or houses of worship and parsonages and other kindred objects, shall be and become vested with the property and effects of any extinct or disbanded Congregational church or society within this State, in trust to apply the same to the maintenance or erection of such houses of worship and parsonages within this State, after paying the debts, if any, of such disbanded church or society, and for these purposes may sell and convert such property into money; provided, however, that in the sale and disposition of real and personal estate so devolving on the said American Congregational Union, its trustees and managing board shall be deemed, in respect to the right and power of possession, control, disposal and conveyance, the legal successors of such extinct corporation; and in case of the sale of real property it may apply to any court of record within the judicial district where such real estate is situated, for the judicial order required for the sale of real estate of religious corporations, and for leave to sell such land and premises so devolving on them. The said American Congregational Union shall determine when any such church or society is extinct, provided that no church having more than nine resident members shall be declared extinct, unless it has failed for

three consecutive years to maintain the stated preaching of the gospel. If the court to which the application is made shall deem that there are persons in being entitled to notice of the application, the court may, in its discretion, make an order to show cause and direct summary service thereof, either by publication thereof for one or more weeks, or personally on the persons designated in the order. Unless the final order shall otherwise direct as to the application of the proceeds, the said the American Congregational Union may, in its discretion, apply such proceeds to the uses and purposes of its incorporation within the restrictions of this act.

[Section 15 of revision. Several minor changes are made for the sake of uniformity, but nothing substantial.]

(Laws 1886, ch. 16, is superseded by L. 1887, ch. 406.)
(Laws 1886, ch. 98, amends L. 1813, ch. 60.)
(Laws 1886, ch. 209; R. S., 8th ed., 1909.)

Section 1. All the provisions of the act entitled "An act supplemental to chapter sixty of the laws of eighteen hundred and thirteen, entitled 'An act to provide for the incorporation of religious societies, and of the several acts amendatory thereof,'" passed April eleventh, eighteen hundred and seventy-six, are made applicable to the New York State Conference of Unitarian Churches, the same as if said body was named in section one of said act, and the said New York State Conference of Unitarian Churches is hereby authorized to incorporate under the provisions of said act.

[Section 14 of revision.]

(Laws 1887, ch. 100; R. S., 8th ed., 1918.)

Section 1. The New York Eastern Christian Benevolent and Missionary Society, a duly incorporated body organized to promote the erection of churches of the Christian denomination, and parsonages for the use of the ministers thereof, and other kindred objects within the bounds of the New York Eastern Christian Conference, shall be and become vested with the property and effects of any extinct or disbanded church or society of the Christian denomination, within the bounds of the New York Eastern Christian Conference, except as hereinafter provided, in trust; to apply the same for the maintenance or erection of churches and parsonages, and for the spread of the gospel in such territory as said society may direct, after paying the debts, if any, of such disbanded or extinct church or society; and for these purposes may sell and convert said property into money,

and in the sale and disposition of all such property, the said New York Eastern Christian Benevolent and Missionary Society, its trustees or managing board, shall be deemed, in respect to the right and power of possession, control, disposal and conveyance, the legal successors of such disbanded or extinct churches or societies, or the trustees thereof. In case of the sale of real property, it may apply to any court of record in any judicial district where such real estate is situated for an order for leave to sell such real estate. If the court to which the application is made shall deem that there are persons in being entitled to notice of the application, the court may, in its discretion, make an order to show cause, and direct service thereof on the person designated in the order, either personally or by the publication thereof for one or more weeks in such newspapers as shall be designated by the court. The said New York Eastern Christian Benevolent and Missionary Society shall determine when any such church or society is extinct, providing that no church having more than nine resident members shall be declared extinct unless it has failed for two consecutive years to maintain the stated preaching of the gospel.

§ 2. The property and effects of any extinct or disbanded church or society of the Christian denomination, situate within the bounds of any duly incorporated conference of the Christian church, shall, except as hereinafter provided, be and become vested in such conference for all intents and purposes mentioned in section one of this act. And the power and authority conferred by this act on the New York Eastern Christian Benevolent and Missionary Society, over such property within its territory, is hereby conferred and given to the said conferences over the property so vested in them.

§ 3. All other property and effects of any other disbanded or extinct church or society of the Christian denomination, except as hereinbefore and hereafter provided, shall be and become vested in the New York State Christian Association, a duly incorporated body, for all intents and purposes mentioned in section one in this act. And the power and authority conferred by this act on the New York Eastern Christian Benevolent and Missionary Society, over such property within its territory is hereby conferred and given to the New York State Christian Association over all property which may become vested in them by reason of this act.

§ 4. The provisions of this act shall apply only to churches and societies of the Christian denomination where the only rule of faith is the Bible, "Christian" their only name, and Christian character the only test of fellowship, but not so construing these

as to make any form of baptism or theological opinion a test of Christian character, and none other.

[Section 15 of revision, without material change of substance.]

(Laws 1887, ch. 406; R. S., 8th ed., 1916.)

Section 1. Any Evangelical Lutheran church or congregation in this State, now incorporated under section three of chapter sixty of the laws of eighteen hundred and thirteen, entitled "An act to provide for the incorporation of religious societies," or hereafter incorporated, may incorporate itself in the mode and manner prescribed by section two of said chapter sixty of the laws of eighteen hundred and thirteen.

[Section 61 of revision authorizes Lutheran churches to adopt either elective method of choosing trustees or the ex-officio method, whereby certain officers of the congregation become trustees of the corporation. If the former method is adopted, incorporation is pursuant to article V of revision — if the latter, pursuant to §§ 62 and 63 of revision.]

§ 2. And it shall be lawful for any such Evangelical Lutheran church or congregation already incorporated under section three of chapter sixty of the laws of eighteen hundred and thirteen, at any meeting called for that purpose, in the manner and mode prescribed in section three of chapter sixty of the laws of eighteen hundred and thirteen, and by a majority of the voices of the persons entitled to vote, according to section seven of chapter sixty of the aforementioned act of eighteen hundred and thirteen, to decide whether such Evangelical Lutheran church or congregation desires to avail itself of the provisions of, and the privileges granted by, the said chapter sixteen of the laws of eighteen hundred and eighty-six.

[See § 61 of revision.]

§ 3. And if any Evangelical Lutheran church or congregation, at such meeting, legally convened, and by a majority of voices entitled to vote, should decide to avail itself of the privileges extended by the said chapter sixteen of the laws of eighteen hundred and eighty-six, the trustees of such church or congregation shall have a certified copy of such action recorded in the office of the clerk of the county in which such church or congregation is situated; in which certified copies the names of the minister or ministers, elders and deacons of such church or congregation, then in office, shall be particularly mentioned;

whereupon the term of office to which the aforementioned trustees were elected shall expire and cease; and the said minister or ministers, elders and deacons of such church or congregation, then in office, shall be and constitute the board of trustees for such Evangelical Lutheran church or congregation; provided, however, that the rights and duties of such trustees are the same as those described in and set forth by section four and the subsequent sections of the aforementioned act of eighteen hundred and thirteen, and the acts amendatory thereof and supplemental thereto.

§ 4. Such Evangelical Lutheran church or congregation so incorporated under the said third section of the laws of eighteen hundred and thirteen shall thereupon become merged in the new corporation so reorganized under the provisions of said chapter sixteen of the laws of eighteen hundred and eighty-six, and such new corporation shall, by virtue of this act, be vested with the title to all the property, real as well as personal, of the old corporation formed under the laws of eighteen hundred and thirteen, in the same manner as if such property had been acquired originally by such new corporation, and such new corporation shall also assume all liabilities to which the old corporation was subject, in the same manner as if originally incurred by such new corporation; and for all purposes whatsoever such new corporation shall take the place and stead of the old corporation.

[Section 66 of revision, without material change of substance.]

(Laws 1887, ch. 600, amends L. 1878, ch. 349.)
(Laws 1888, ch. 459; R. S., 8th ed., 1913.)

Section 1. In all cases where a conveyance of any real estate has been or hereafter shall be made to any religious society or corporation, incorporated under or by virtue of any general or special laws of this State and in the deed of such conveyance the corporate name or designation of such religious society or corporation as the grantee in such deed of conveyance is not correctly stated, and where the intention of the grantor or grantors in such deed is signified by the use of the principal words of the corporate name or designation of any such religious society or corporation, and where such religious society or corporation shall have entered into possession and occupation of such real estate, it shall be lawful for such religious society or corporation to file in the office of the clerk of the county wherein such real estate is located, or if there be a register of deeds of such county, then in the office of such register, a statement setting forth the date of such deed of conveyance, the date of the recording and the

number and page of the book of record thereof, the name or names of the grantor or grantors, the description of the property conveyed, the erroneous title of such religious society or corporation as expressed in such deed, and also the correct title thereof, which statement shall be verified by the affidavit of any duly authorized officer of such religious society or corporation taken by any person authorized to take acknowledgments and proof of deeds; and it shall be the duty of such clerk or register to file the said statement so verified as aforesaid in his office, and to record the same in a book to be kept for that purpose, and to note the filing and recording thereof in the margin of the record of the said deed, for which such clerk or register shall receive the same fees as are now allowed for the recording of deeds. And from and after the filing and recording of such statement as aforesaid, the proper corporate name or designation of such religious society or corporation shall be deemed to have been expressed in the original deed of conveyance aforesaid. And the said statements and duly certified copies thereof shall be received in evidence in any of the courts of this State.

[Covered by § 10 of revision. See note to that section.]

(Laws 1890, ch. 66, amends L. 1813, ch. 60.)
[Laws 1890, ch. 424, amends L. 1813, ch. 60.]

SPECIAL ACTS

RELATING TO

RELIGIOUS CORPORATIONS.

1693. Chapter 36. An act for settling a ministry and raising a maintenance for them in the city of New York, county of Richmond, Westchester and Queens county.

1704. Chapter 141. An act for granting sundry privileges and powers to the rector and inhabitants of the city of New York, of the communion of the Church of England, as by law established.

1784. Chapter 18. An act to enable all the religious denominations in this State to appoint trustees, who shall be a body corporate, for the purpose of taking care of the temporalities of their respective congregations, and for other purposes therein mentioned.

1801. Chapter 79. An act to provide for the incorporation of religious societies.

1814. Chapter 1. An act to alter the name of the corporation of Trinity Church, in New York, and for other purposes.

1819. Chapter 110. An act to incorporate the General Synod of the Reformed Protestant Dutch Church.

1842. Chapter 153. An act concerning the acquisition of burial places by religious corporations in the city of New York.

1863. Chapter 287. An act relative to certain religious societies in the city of New York.

1867. Chaper 206. An act to incorporate "The Trustees of the Presbytery of New York."

1868. Chapter 273. An act to incorporate "The Trustees of the Synod of Albany."

1868. Chapter 461. An act to incorporate the Evangelical Lutheran Synod of the State of New York.

1868. Chapter 471. An act for the relief of certain religious societies in the city and county of New York, and in the counties of Kings and Westchester.

1869. Chapter 171. An act to amend "An act to incorporate the General Synod of the Reformed Dutch Church," passed April seventh, eighteen hundred and nineteen, and to enable said synod to hold property to a greater amount.

1869. Chapter 197. An act to change the corporate title of the General Synod of the Reformed Protestant Dutch Church, to that of The General Synod of the Reformed Church in America.

1871. Chapter 401. An act to incorporate the Synod of Western New York.

1871. Chapter 750. An act to incorporate "The Trustees of the Estate belonging to the Diocese of Long Island," and to authorize said corporation to acquire and hold land for religious, charitable and benevolent purposes.

1872. Chapter 644. An act to incorporate the Trustees of the Presbytery of Westchester.

1872. Chapter 762. An act to incorporate the German United Evangelical Synod of the East.

1873. Chapter 197. An act incorporating the Trustees of Northern New York Conference of the Methodist Episcopal Church.

1873. Chapter 346. An act to incorporate the Free Methodist General Conference of North America.

1874. Chapter 121. An act to incorporate the Western New York Conference of the Methodist Episcopal Church.

1875. Chapter 307. An act to amend an act entitled "An act to incorporate the Evangelical Lutheran Synod of the State of New York."

1882. Chapter 139. An act to incorporate the Charity Organization Society of the City of New York.

1883. Chapter 257. An act to establish a board of trustees in the city of New York, for parishes in foreign countries of the Protestant Episcopal Church, in the United States of America.

1883. Chapter 501. An act to amend an act entitled "An act to amend the charter of the Minister, Elders and Deacons of the Second Protestant Reformed Dutch Church, in the city of Albany."

1884. Chapter 340. An act to incorporate the Synod of New York.

1885. Chapter 197. An act to amend chapter two hundred and thirty-five of the laws of eighteen hundred and forty-two, entitled "An act to amend the act entitled 'An act to incorporate the Baptist Education Society of the State of New York.'"

1885. Chapter 251. An act for the relief of certain religious societies in the county of Kings.

1886. Chapter 365. An act further to amend chapter one hundred and thirty-one of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Trustees of the Church Erection Fund of the General Assembly of the Presbyterian Church in the United States of America."

1887. Chapter 81. An act in relation to the corporation called the Baptist Missionary Convention of the State of New York.

1887. Chapter 236. An act to amend chapter two hundred and thirty-five of the laws of eighteen hundred and forty-two, entitled "An act to incorporate the Baptist Education Society of the State of New York," passed March fifth, eighteen hundred and nineteen.

1887. Chapter 239. An act to amend an act entitled "An act to incorporate the Western New York Conference of the Methodist Episcopal Church."

1888. Chapter 61. An act in relation to the amount of property to be held by the Baptist Home Society of the State of New York.

1888. Chapter 46. An act to amend an act entitled "An act to incorporate the Missionary Society of the Most Holy Redeemer in the city of New York."

1888. Chapter 105. An act to amend chapter three hundred and sixty of the laws of eighteen hundred and seventy-two, entitled "An act to amend the charter of the American Bible Society."

1888. Chapter 308. An act in relation to the trustees of the parochial funds of the Protestant Episcopal Church, in the diocese of Western New York.

1889. Chapter 395. An act to amend an act entitled "An act to incorporate the American Missionary Association."

1889. Chapter 460. An act to incorporate the American Baptist Education Society.

1889. Chapter 559. An act to amend chapter three hundred and ninety-two of the laws of eighteen hundred and seventy-one, entitled "An act to incorporate the Southern New York Baptist Association."

1890. Chapter 53. An act to amend an act entitled "An act to incorporate the American Home Missionary Society."

1890. Chapter 113. An act to incorporate the General Conference of Free Baptists.

1892. Chapter 135. An act in relation to the Board of Home Missions of the Presbyterian Church.

1893. Chapter 410. An act to incorporate the New York City Baptist Association and the American Baptist Home Mission Society.

1893. Chapter 557. An act in relation to the American Baptist Publication Society.

1894. Chapter 326. An act to amend an act entitled "An act to incorporate the Board of Foreign Missions of the Presbyterian Church of the United States of America."

1894. Chapter 634. An act to incorporate the Home Church Extension Board of Onondaga Conference, Methodist Protestant Church.

1894. Chapter 635. An act to enable the Board of Church Extension of the Methodist Protestant Church to take, hold and convey property in the State of New York.

1894. Chapter 649. An act to incorporate the American Baptist Missionary Union.

FORMS.

No. 1.

Proxy of Non-Business Corporation.

(General Corporation Law, § 21.)

I, (*name*) hereby appoint A. B. to be my lawful attorney and to act as my substitute and proxy, and to vote in my name, at the annual (*or special*) meeting of the members of (*name of corporation*), to be held on the ..... day of ....., 189 , and at any adjourned meeting thereof, with the same force and effect as I might do personally; and I hereby revoke any proxy heretofore given by me to any person whatsoever.

Witness, my hand and seal this ..... day of ....., 189 .

(*Signature.*) [L. s.]

In presence of

No. 2.

Oath of Voter.

(General Corporation Law, § 23.)

STATE OF NEW YORK, } *ss.:*
COUNTY OF ....., }

A. B., being duly sworn, deposes and says, that he is a member of the (*corporate name*).

A. B.

Sworn to before me, this..... day of ....., 189 .

(*Notary's signature.*)

No. 3.

Certificate of Extension of Purposes.

(Membership Corporations Law, § 4.)

We, the undersigned, a majority of the directors of the (*corporate name*), a membership corporation incorporated by (*or under*) chapter .... of the Laws of 18 , desiring to extend its corporate purposes pursuant to section 4 of the Membership Corporations Law, do hereby certify as follows:

First. The name of the corporation is (*corporate name*)

Second. The purpose for which it was incorporated is (*state purpose, which must be one for which a corporation may be formed under Article II of Membership Corporations Law*).

Third. The purpose to which it is desired to extend its corporate purposes is (*state purpose, which must be one for which a corporation may be formed under Article II of Membership Corporations Law*).

Fourth. Such extension has been duly authorized by a resolution adopted by the concurring vote of a majority of the members of the corporation present at an annual (*or special meeting, duly called*) of the corporation, as more fully appears by the certificate of the president and secretary of the corporation, hereto annexed, and filed herewith.

In witness whereof, we have made, signed and executed this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of majority of directors.*)

STATE OF NEW YORK, }
COUNTY OF ..... , } ss.:

On this ..... day of ....., 189 , before me personally came (*names*) to me severally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

Certificate of President and Secretary.

We, the undersigned, A. B., president, and C. D., secretary, of the (*corporate name*), do hereby certify, as follows:

That an annual meeting (*or special meeting duly called for the purpose of acting upon the proposition of extending the corporate purposes of the corporation, pursuant to section 4 of the Membership Corporations Law*) of such corporation, was held on the ..... day of ....., 189 .

That at such meeting there were present (*state number*), of the members of such corporation.

That the following resolution was offered:

"*Resolved*, That the purposes and powers of the (*corporate name*) be extended, as follows: (*state purposes*), and that the directors of such corporation be authorized and directed to execute and file a certificate, pursuant to section 4 of the Membership Corporations Law, and to take such other and further steps as may be necessary and proper."

That such resolution was duly adopted by the concurring vote of (*state number*) of the members of such corporation, being a majority of all the members present at such meeting.

Dated ....., 189 .

A. B., *President.*
C. D., *Secretary.*

STATE OF NEW YORK, } ss.:
COUNTY OF....., }

A. B., chairman, and C. D., secretary, being severally duly sworn, each deposes and says, that A. B. is president of (*corporate name*) and C. D. is secretary thereof, that he has read the foregoing certificate, subscribed by him, and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *President.*
C. D., *Secretary.*

Sworn to before me, this..... }
day of ....., 189 . }

(*Signature of notary.*)

Certificates of Justice and State Board.

I hereby approve of the extension of corporate purposes proposed by the foregoing (*or within*) certificate, and of the filing thereof.

(*Signature of Justice of Supreme Court.*)

We, A. B., president, and C. D., secretary, of the State Board of Charities, hereby certify that at a meeting of such board, held on the ..... day of ....., 189 , the foregoing (*or within*) certificate extending the purposes of the (*corporate name*), was duly approved and the filing thereof authorized.

A. B., *President.*
C. D., *Secretary.*

NOTE.—The certificate should be filed in the offices in which the original certificates of the corporation, if any, are filed; and otherwise in the offices in which certificates of incorporation for such purposes are required to be filed. The fees for recording in office of Secretary of State are 15 cents per folio; in the office of the county clerk, for filing, six cents, and for recording, 10 cents per folio.

No. 4.

Incorporation of Unincorporated Association.

(Membership Corporations Law, § 5.)

We, the undersigned, a majority of the directors of (*state name of unincorporated club, society or association*), an unincorporated club (*society or association*), desiring to incorporate pursuant to section 5 of the Membership Corporations Law, do hereby certify as follows:

That such club (*society or association*) was organized for the purpose of (*state purpose.*)

That a regular (*or regularly called*) meeting of such club (*society or association*) was held on the ... day of ....., 189 .

That a notice of the time and place of such meeting and that the proposition of incorporating would be considered thereat, was served upon each member of such club (*society or association*) whose residence or post-office address was known, at least thirty days before such meeting, either personally

or by depositing it in the post-office, postage prepaid, addressed to such member at his last known post-office address.

That a copy of such notice is hereto annexed and made a part of this certificate.

That at such meeting the directors of such club (*society or association*) were duly authorized by the unanimous vote of all the members of such club (*society or association*), present and voting at such meeting, to incorporate such club (*society or association*), in pursuance of section 5 of the Membership Corporations Law, under article (*state number*) of such chapter, with the corporate name of (*state name adopted*), as more fully appears by the certificate of the chairman and secretary of the meeting, hereto annexed and filed herewith.

That we further certify as follows, to-wit:

(*Here insert the recitals contained in the form of certificate of incorporation for the formation of a corporation pursuant to the article under which it is proposed to incorporate.*)

In witness whereof, we have made, signed and acknowledged this certificate in duplicate, this ..... day of ....., 189 .

(*Signatures of majority of directors.*)

STATE OF NEW YORK,
COUNTY OF ..... } *ss.:*

On this ..... day of....., 189 , before me personally came (*names*) to me severally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth

(*Signature of notary.*)

Certificate of President and Secretary of Meeting.

We, the undersigned, A. B., president, and C. D., secretary, of a regular (*or regularly called*) meeting of the members of (*state name of club, society or association*) held on the ..... day of ...., 189 , do hereby certify as follows:

That the meeting was organized by such members by choosing the undersigned, A. B., as chairman, and the undersigned, C. D., as secretary.

That a vote was then taken of those present in person or by proxy upon the proposition of incorporating such club (*society or association*), pursuant to section 5 of the Membership Corporations Law.

That the following resolution was offered:

"*Resolved*, That the directors of (*insert the name of the club, society or association*) be authorized and directed to incorporate such club (*society or association*) pursuant to section 5 of the Membership Corporations Law, under article (*state number*) of such chapter, and to execute and file certificates and take such other and further steps as may be proper and necessary therefor"

That such resolution was adopted by the votes of (*state number*) of the members of such club (*society or association*), being the unanimous vote of all the members thereof present at such meeting and voting thereon.

Dated....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

A. B., chairman, and C. D., secretary, being severally duly sworn, each deposes and says that he has read the foregoing certificate, subscribed by him, and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Sworn to before me, this..... }
day of..... ....., 189 . }

(*Signature of notary.*)

Notice of Meeting.

To the members of (*insert name of club, society or association*):

Notice is hereby given that at a regular meeting (*or a special meeting*) of such club (*society or association*) to be held on the ..... day of..... ....., 189 , at .. o'clock in the forenoon (*afternoon*), a proposition of incorporating such club (*society or association*) in pursuance of section 5 of the Membership Corporations Law, will be acted upon by the members thereof.

Dated this ..... day of ....., 189 .

A. B.,
C. D.,
E. F.,
Majority of Directors.

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

....., being sworn, deposes and says, that on the ..... day of ....., 189 , he deposited in the post-office at the city of..... a copy of the annexed notice to the members of the (*insert name of club, society or association*), contained in a duly postpaid wrapper directed to each member thereof at his last known post-office address.

(*Signature.*)

Sworn to before me, this..... }
day of....., 189 . }

(*Signature of notary.*)

(*Add approval of justice of the Supreme Court or other authority, as required by the article under which it is proposed to incorporate.*)

NOTE.—Fees for recording in office of Secretary of State are 15 cents per folio. Fees for filing a certified copy or duplicate original in county clerk's office are, filing six cents; recording, 10 cents per folio.

No. 5.

Certificate of Reincorporation of Membership Corporation.

(Membership Corporations Law, § 6.)

We, the undersigned, a majority of the directors of (*corporate name*) a membership corporation created by (*or under*) chapter ..... of the Laws of 189 , desiring to reincorporate pursuant to section 6 of the Membership Corporations Law, under article (*state number*) of such chapter, do hereby certify as follows.

That such corporation was organized for the purpose of (*state purpose*).

That a regular (*or regularly called*) meeting of such corporation was held on the ..... day of ....., 189 .

That at such meeting the directors of such corporation were duly authorized by the unanimous vote of all the members of such corporation, present and voting at such meeting, to reincorporate such corporation, in pursuance of section 6 of the Membership Corporations Law, under article (*state number*) of such chapter, by the same corporate name as it has heretofore had, as more fully appears by the certificate of the chairman and secretary of the meeting, hereto annexed, and filed herweith, and we hereby further certify as follows, viz.:

(*Here insert the recitals contained in the form of certificate of incorporation for the formation of a corporation pursuant to the article under which it is proposed to reincorporate*).

In witness whereof, we have made, signed and acknowledged this certificate in duplicate on this ..... day of ....., 189 .

(*Signatures of majority of directors.*)

STATE OF NEW YORK, } *ss.:*
COUNTY OF....., }

On this ..... day of ....., 189 , before me personally came (*insert names*) to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

Certificate of President and Secretary of Meeting.

We, the undersigned, A. B., president, and C. D., secretary, at a regular (*or regularly called*) meeting of the members of (*corporate name*), held on the ..... day of ....., 189 , hereby certify as follows:

That the meeting was organized by such members by electing the undersigned, A. B., as chairman, and the undersigned, C. D., as secretary.

That a vote was then taken of those present in person or by proxy upon the proposition of reincorporating such corporation pursuant to section 6 of the Membership Corporations Law.

That the following resolution was offered.

"*Resolved*, That the directors of (*corporate name*) be authorized and directed to reincorporate such corporation pursuant to section 6 of the

Membership Corporations Law, under article (*state number*) of such chapter, and to execute and file certificates and take such other and further steps as may be proper and necessary therefor."

That such resolution was adopted by the votes of (*state number*), of the members of such corporation, being a unanimous vote of all the members thereof present at such meeting and voting thereon.

A. B., *Chairman*,
C. D., *Secretary*.

Dated this ..... day of ....., 189 .

STATE OF NEW YORK,
COUNTY OF .....,} *ss.:*

A. B., chairman, and C. D., secretary, being severally duly sworn, each deposes and says, that he has read the foregoing certificate, subscribed by him, and that he knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman*.
C. D., *Secretary*.

Severally sworn to before me, this..... day of....., 189 .

(*Signature of notary.*)

(*Add approval of justice or other authority as required for an original certificate by the article under which it is proposed to reincorporate.*)

NOTE.—For fees for filing, etc., see note to No. 4.

No. 6.

The Consolidation of Membership Corporations.

(Membership Corporations Law, § 7.)

Agreement for Consolidation.

This agreement, made the ..... day of ..... 189 , between the board of directors of (*corporate name*), party of the first part, and the board of directors of (*corporate name*), party of the second part,

Witnesseth, that (*corporate name*), party of the first part, is a corporation organized by (*or under*) chapter .... of the Laws of 189 , for the purpose of (*state purpose*).

That (*corporate name*), party of the second part, is a corporation organized by (*or under*) chapter.... of the Laws of 189 , for the purpose of (*state purpose*).

That, in consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby agree to merge and consolidate such corporations into a single corporation in pursuance of section 7 of the Membership Corporations Law, and under article (*state number*) of such chapter, upon the following terms and conditions:

First. That the name of the corporation formed by such consolidation shall be (*insert corporate name*).

(*Follow with recitals required to be made in original certificate of incorporation of a corporation formed under the article to which the new corporation will be subject.*)

In witness whereof, said parties of the first and second parts have hereunto executed this agreement in duplicate by their boards of directors, respectively, the day and year above mentioned.

.....

.....

Directors of (*corporate name*).

.....

....

Directors of (*corporate name*).

STATE OF NEW YORK, }
COUNTY OF ....., } ss.:

On this ..... day of ..... 189 , before me personally came (*names of directors of corporation of the first part*), directors of (*corporate name*), to me severally known to be the persons who made and signed the foregoing agreement, and severally acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary*).

(*Prepare the same form of acknowledgment for the directors of the corporation of the second part, and annex it thereto.*)

Verified Copy of Proceedings of Meeting Approving Consolidation.

A special meeting of the members of (*corporate name*) for the purpose of submitting to said members the annexed agreement for the consolidation of (*corporate name*) with (*corporate name*), under the name of (*insert name of the new corporation*), was held at (*insert name of place*) in the city (*village or town*) of ..... on the ..... day of ...., 189 , at ..... o'clock in the ..... noon of that day.

The meeting was organized by the election of A. B. as chairman, and C. D. as secretary thereof, respectively.

The annexed agreement was thereupon submitted to said members for their approval, and, after consideration, a vote was taken by ballot upon the question of approving or rejecting the same, pursuant to section 7 of the Membership Corporations Law.

The whole number of votes cast upon said question was (*state number*), of which (*state number*) votes were cast in favor of approving such agreement, being three-fourths of all the votes lawfully cast by the members of such corporation voting thereon.

Thereupon such agreement of consolidation was declared duly approved, in pursuance of section 7 of the Membership Corporations Law, and the meeting adjourned.

In witness whereof, we have made, signed and verified the foregoing copy of proceedings this ..... day ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

A. B., chairman, and C. D., secretary, being duly and severally sworn, each deposes and says, that he has read the foregoing statement of proceedings of a special meeting of the members of (*corporate name*) for the purpose of considering the question of consolidating such corporation with (*corporate name*) and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Severally sworn to before me, this ..... }
day of ....., 189 . }
(*Notary's signature.*)

(*Prepare the same form of statement and verification for the other consolidating corporation, and annex the same.*)

Petition.

SUPREME COURT — COUNTY OF ALBANY.

IN THE MATTER
OF THE
CONSOLIDATION OF (*corporate name*)
AND (*corporate name*).

The petition of (*corporate name*) and (*corporate name*) respectively shows to this court,

That (*corporate name*) and (*corporate name*), by their respective boards of directors, on the ..... day ..... 189 , entered into an agreement for the consolidation of such corporations into a new corporation, in pursuance of section 7 of the Membership Corporations Law, as follows: (*Insert copy of agreement.*)

That such agreement was duly approved at a meeting of each corporation separately and specially called for that purpose, by three-fourths of the votes of the members of each of such corporations, lawfully cast at such meeting, as appears by the verified statements of the chairman and secretary of each of such meetings respectively, hereunto annexed, and made a part of this petition.

The property of (*corporate name*) is as follows: (*specify property*); the liabilities of such corporation are as follows (*specify liabilities*); the amount and sources of the annual income of such corporation are as follows: (*Specify amount and sources of annual income.*)

(*Make the same recitals as to the other consolidating corporation.*)

Wherefore, your petitioners pray for an order consolidating such corporations in accordance with the terms and conditions of the agreement hereunto annexed, in pursuance of section 7 of the Membership Corporations Law.

Dated this ..... day of ... ., 189 .

... .
... .
Directors of (corporate name).
....
....
Directors of (corporate name).

STATE OF NEW YORK, }
COUNTY OF ....., } ss.:

(Names of directors of one of the consolidating corporations), directors of (*corporate name*), being duly and severally sworn, each deposes and says, that he has read the foregoing petition subscribed by him, and knows the contents thereof and that the same is true and correct.

... .
.....
Directors of (corporate name).

Severally sworn to before me, this ..... day of ....., 189 . }

(Signature of notary.)

(Prepare same verification for the directors of the other consolidating corporation.)

Order.

At a Special Term of the Supreme Court, held at ..... on the ..... day of ....., 189 .

Present — Hon. *(name of justice)*.

IN THE MATTER
OF THE
CONSOLIDATION OF (*corporate name*)
AND (*corporate name*).

Petition having been made to this court in pursuance of section 7 of the Membership Corporations Law, for an order consolidating (*corporate name*) and (*corporate name*) and it appearing from such petition that such corporations have duly entered into an agreement for the consolidation thereof and that the same has been duly approved by three-fourths of the votes lawfully cast at a meeting of each of such corporations, separately and specially called for that purpose, and having heard .... in favor of such petition

and ..... in opposition thereto, now on motion of ..... attorney for (*corporate name*):

Ordered, That upon the entry of this order in the county clerk's office of the county of ....., such corporations shall be consolidated into a new corporation as provided by section 7 of the Membership Corporations Law, upon the following terms and conditions: (*Insert terms and conditions.*)

Dated .....

(*Signature of the justice of the Supreme Court.*)

NOTE. — Upon entry of the order the consolidation is effected.

No. 7.

Supplemental Certificate Designating Trustees.

(Membership Corporations Law, § 10.)

We, the undersigned, A. B., chairman, and C. D., secretary, respectively, of a regular or (*regularly called*) meeting of the members of (*insert corporate name*), a membership corporation heretofore organized, held for the purpose of designating (*state number, not less than five nor more than fifteen*) of its directors to be the trustees of its property until the next annual meeting, pursuant to section 10 of the Membership Corporations Law, do hereby certify:

That the meeting was organized by such members choosing the undersigned, A. B., as chairman, and the undersigned, C. D., as secretary.

That a vote was then taken of those present, in person or by proxy, upon the proposition to designate (*state number, not less than five nor more than fifteen*) of its directors to be the trustees of its property until the next annual meeting.

That the following resolution was offered:

"*Resolved*, That (*insert the names of not less than five nor more than fifteen directors*) directors of (*corporate name*), be the trustees of the property of such corporation until the next annual meeting thereof, and that the officers of this meeting be authorized and directed to execute and file a supplemental certificate of such designation, in pursuance of section 10 of the Membership Corporations Law."

That such resolution was adopted by a majority vote of all the members of such corporation present and voting at such meeting, either in person or by proxy.

That such resolution was thereupon declared adopted.

In witness whereof, we, the undersigned, chairman and secretary, respectively, of said meeting, hereby make, sign, verify and acknowledge this certificate in duplicate, and hereby certify that the foregoing is a true and correct certificate of the proceedings of such meeting.

Dated this ..... day of ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, } ss.:
COUNTY OF ..... }

A. B., chairman, and C. D., secretary, being duly and severally sworn, each deposes and says, that he has read the foregoing certificate subscribed by him, and knows the contents thereof, and the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Severally sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ....., 189 , before me personally came (*insert names of chairman and secretary*), to me severally known to be the persons described in and who executed the foregoing certificate, and severally acknowledged to me that they executed the same.

(*Signature of notary.*)

NOTE.—Fees for recording in office of Secretary of State, 15 cents per folio; for filing in county clerk's office, six cents, and for recording, 10 cents per folio.

No. 8.

Supplemental Certificate Changing the Number of Directors.

(Membership Corporations Law, § 14.)

We, the undersigned, a majority of the directors of (*state corporate name*), a membership corporation heretofore incorporated, desiring to change the number of its directors, pursuant to section 14 of the Membership Corporations Law, do certify as follows:

That such corporation was organized for the purpose of (*state purpose*).

That an annual meeting of such corporation was held on the ..... day of ....., 189 .

That at such meeting the members of such corporation by a majority vote determined to change the number of its directors therein (*state existing number*) to (*state the number to which it is proposed to change*), as more fully appears by the certificate of the chairman and secretary of such meeting hereto annexed and made part of this certificate.

In witness whereof, we have made, signed and acknowledged this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of a majority of the directors.*)

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

On this ..... day of ....., 189 , before me personally came (*insert names of directors signing the certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

Certificate of Chairman and Secretary of the Meeting.

We, the undersigned, A. B., chairman, and C. D., secretary, of an annual meeting of the members of (*state corporate name*) held on the ..... day of ....., 189 , do hereby certify as follows:

That a meeting was organized of such members by choosing the undersigned A. B. as chairman, and the undersigned C. D. as secretary.

That a vote was then taken by those present in person or by proxy upon the proposition of changing the number of the directors of the corporation from (*state existing number*) to (*state the number which a corporation created under the Membership Corporations Law for the same purpose is authorized to have*), pursuant to section 14 of the Membership Corporations Law. That the following resolution was offered:

"*Resolved*, That the directors of (*insert corporate name*) be authorized and directed to file a supplemental certificate changing the number of trustees of (*state corporate name*) to (*state number proposed*), in pursuance of section 14 of the Membership Corporations Law."

That such resolution was duly adopted by a majority vote of all of the members of such corporation present at such meeting, and voting either in person or by proxy thereon.

Dated this ..... day of ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

A. B., chairman, and C. D., secretary, being severally duly sworn, each deposes and says, that he has read the foregoing certificate subscribed by him, and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Severally sworn to before me, this ..... }
day of ....., 189 . }

(*Signature of notary.*)

NOTE — For fees for filing and recording, see note to No. 7.

No. 9.

Supplemental Certificate Changing Time of Annual Meeting.

(Membership Corporations Law, § 15.)

We, the undersigned, A. B., chairman, C. D., secretary, respectively, of an annual (*or special*) meeting of the members of (*corporate name*), a membership corporation heretofore incorporated by or under chapter ..... of the Laws of ....., 189 , do certify that the following is a true and correct transcript of a portion of the minutes of such meeting relating to changing the time of the annual meetings of the corporation, pursuant to section 15 of the Membership Corporations Law:

"Minutes of an annual meeting (*or a special meeting duly called for the purpose of changing the time of the annual meeting*) of the members of (*corporate name*), held on the ..... day of ....., 189 , at ..... o'clock in the forenoon.

The meeting having been called to order, and organized by the election of A. B. as chairman and C. D. as secretary of the meeting: Upon motion, duly seconded, a vote was taken upon the following resolution:

"*Resolved*, That the time of the annual meeting of the (*corporate name*) be changed from (*existing date*) to (*proposed date*), in pursuance of section 15 of the Membership Corporations Law; and that the president and secretary of the meeting be authorized and required to file a certificate of a transcript of the minutes of the meeting, in accordance with such section."

Such resolution was adopted by a vote of (*state number*) of the members of the corporation, there being (*state number*) vote against its adoption.

Thereupon the resolution was declared duly adopted."

In witness whereof, we have made, signed, verified, acknowledged and filed this certificate in duplicate, this ..... day of ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK,
COUNTY OF....., } ss.:

A. B., chairman, and C. D., secretary, being duly sworn, each deposes and says, that he has read the foregoing certificate subscribed by him, and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Severally sworn to before me, this .....
day of ....., 189 .

(*Signature of notary.*)

STATE OF NEW YORK,
COUNTY OF ....., } ss.:

On this ..... day of ...., 189 , before me personally came A. B. and C. D., to me known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—For fees for filing, etc., see note to No. 7.

No. 10.

Certificate of Incorporation under Article 2.

(Membership Corporations Law, § 81.)

STATE OF NEW YORK,
COUNTY OF .... } ss.:

We, the undersigned, of full age, being desirous of associating ourselves together for (*state object of incorporation*) as hereinafter is more particularly described, pursuant to and in conformity with Acts of the Legislature of the State of New York, relating to Membership Corporations, do hereby certify and declare that we are all of full age, two thirds of us are citizen of the United States and ....of us .....resident of the State of New York.

We do further certify and declare as follows:

First.—That the particular objects for which said Corporation is formed are as follows, viz: (*State objects*).

Second.—That the corporate name by which said Corporation hereby to be formed shall be known and distinguished is and shall be (*state corporate name*)

Third.—That the territory in which the operations of said Corporation are to be principally conducted is (*briefly describe territory*).

Fourth—That the principal office of said Corporation shall be located in the (*state town, village or city*) of (*state name of town, village or city*) County of (*state name of county*) and State of New York.

Fifth.—That the number of Directors of said Corporation shall be (*state number, not less than three or more than thirty*).

Sixth.—That the names and places of residence of the persons to be the Directors of said Corporation until its first annual meeting are:

Names.	Place of residence.
. ...	.. . .
....	....

Seventh—That the annual meeting of said Corporation shall be held on the ....day of..... .....in each and every year.

In testimony whereof, we have made and signed this Certificate in duplicate and have hereunto set our hands and affixed our respective seals this .... day of ... .,one thousand nine hundred..... .. ..

STATE OF NEW YORK,
COUNTY OF..... . } ss.:

I, ... , a Notary Public duly commissioned and qualified, do hereby certify that on this..... .....day of .... in the year one thousand nine hundred ... ., personally appeared

before me..... to me severally known and known to me to be the individuals named in and who executed the foregoing Certificate, and they thereupon severally acknowledged before me that they did execute the same for the purposes therein set forth.

I, ..., a Justice of the Supreme Court of the State of New York, of the.....Judicial District, do hereby approve the foregoing certificate of incorporation, and consent that the same be filed.

.....

Justice Supreme Court,
Judicial District.

No. 11.

Certificate of Incorporation of Cemetery Corporation.

(Membership Corporations Law, § 41.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, desiring to form a cemetery corporation, pursuant to article 3 of the Membership Corporations Law, do hereby make, sign and acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state proposed name*).

Second. The cemetery of such corporation is to be situated in the county or counties of (*state the name of each county in which any part of the cemetery is to be situated*), in the town (*city or village*) of (*state the name of each town, city or village in which any part of the cemetery is to be situated*).

Third. The number of directors of the corporation shall be (*state number, either six, nine, twelve or fifteen*).

Fourth. The names of the persons to be its directors until the first annual meeting are (*state names of one-third of the directors*); the names of the persons to be its directors until the second annual meeting are (*state names of one-third of the directors*), and the names of the persons to be its directors until the third annual meeting are (*state names of one-third of its directors*).

Fifth. The date for holding the annual meeting of such corporation shall be (*state day of the month when it is proposed to hold the annual meeting*).

Sixth. Of the surplus proceeds of sales of lots, after payment of the purchase price of the real property of the corporation .... per cent. shall be invested by the directors as a permanent fund, the income of which shall be used for the improvement, preservation and embellishment of the cemetery grounds and for no other purpose. (*The insertion of this proposition is optional with the incorporators.*)

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of incorporators, not less than seven.*)

STATE OF NEW YORK,
COUNTY OF..... .....,} *ss.:*

On this ..... day of ..... 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within certificate*) and of the following thereof.

(*Signature of a justice of the Supreme Court.*)

For fees for filing and recording, see note, form No. 10.

No. 12.

Certificate Changing the Number of Directors of Cemetery Corporation.

(Membership Corporations Law, § 44.)

We, the undersigned, a majority of the directors of the (*state corporate name*), a cemetery corporation, incorporated by or under chapter .... of the Laws of 18 , desiring to change the number of directors thereof in pursuance of section 44 of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes as follows:

First. The number of directors which such corporation now has in pursuance of law is (*state number*).

Second. The number of directors which the corporation shall hereafter have shall be (*state number, either six, nine, twelve or fifteen*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this .... day of ....., 189 .

(*Signatures of a majority of directors.*)

STATE OF NEW YORK,
COUNTY OF..... .....,} *ss.:*

On this .... day of ....., 189 , before me personally came (*insert the names of subscribers to certificate*), to me personally known to be the same persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

NOTE.—For fees for filing and recording, see note to form No. 7.

No. 13.

Certificate of Incorporation of Private Cemetery Corporation.

(Membership Corporations Law, § 56.)

We, the undersigned, A. B., chairman, and C. D., secretary, of a meeting of the proprietors of a private cemetery, held on the ..... day of....., 189 , in pursuance of section 56 of the Membership Corporations Law, do certify as follows:

First. That at such meeting not less than seven of the proprietors of such private cemetery were present.

Second. That it was determined thereat by the concurring vote .... (*state number, not less than seven*) of such proprietors to become incorporated as a private cemetery corporation pursuant to section 56 of the Membership Corporations Law, under the corporate name of (*state name adopted*).

Third. That at such meeting, such proprietors elected three of their number to be directors of such corporation, for a term of five years.

Fourth. The names and places of residence of the persons so elected directors are as follows: (*State name and place of residence.*)

Fifth. The cemetery of such corporation is bounded and described as follows: (*Insert description of the lands set apart which shall not be more than three acres in extent.*)

In witness whereof, we have made, signed, acknowledged, verified and filed this certificate.

Dated this ..... day of ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, } ss.:
COUNTY OF .....,

A. B., chairman, and C. D., secretary, being severally duly sworn, deposes and says, each for himself, that he has read the foregoing certificate subscribed by him, and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *President.*
C. D., *Secretary.*

Severally sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....,

On this ..... day of ....., 189 , before me personally came (*insert names of chairman and secretary*), to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

NOTE.— Certificate should be filed in county clerk's office only. The fees for filing are six cents; recording, 10 cents per folio.

No. 14.

Certificate of Incorporation of Fire Corporation.

(Membership Corporations Law, § 65.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States and one of whom is a resident of the State of New York, desiring to form a fire (*hose, protective or hook and ladder*) corporation, in pursuance of section 65 of the Membership Corporations Law, do hereby make, sign acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state name*).

Second. The particular object for which the corporation is to be formed is (*state object*).

Third. The corporation proposes to act in the city (*village or town*) of (*state name*).

Fourth. The number of its directors shall be (*state number*).

Fifth. The names and places of residence of the persons to be its directors until the first annual meeting are as follows:

Names.	Places of residence.
....	.....
.....	.....

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of incorporators, not less than ten.*)

STATE OF NEW YORK,
COUNTY OF ....., } ss.:

On this ..... day of ....., 189 , before me personally came (*insert the names of the subscribers to certificate*), to me personally known to be the persons described in, and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of justice of Supreme Court.*)

If such corporation is in a city, the approval of the mayor is necessary, in the following form:

I hereby approve of the foregoing (*or within*) certificate of incorporation and of the filing thereof.

(*Signature of the mayor of the city.*)

If such corporation is to act in a village or town, a certified copy of the resolution of the board of trustees of such village, or the town board of such town, as the case may be, shall be annexed to the certificate, as follows:

I, A. B., clerk of the village (*or town*) of ...., do hereby certify that at a meeting of the board of trustees of such village (*or town board of such town*), a resolution, of which the following is a true and correct copy and of the whole thereof, was duly adopted:

WHEREAS (*state name of persons proposing to incorporate*) propose to form a fire (*hose, protective or hook and ladder*) corporation in pursuance of section 65 of the Membership Corporations Law, to act in the village (*or town*) of .....

Resolved, That the board of trustees of the village (*or town board of the town*) of ....., hereby consent to the formation of such corporation for the purposes aforesaid.

Dated this ..... day of .....

(A. B., *Clerk of village or town*)
of .....

NOTE.—For fees for filing and recording, see note to form No. 10.

No. 15.

Certificate of Incorporation of Corporation for the Prevention of Cruelty.

(Membership Corporations Law, § 70.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, desiring to form a corporation for the prevention of cruelty to children (or cruelty to animals), pursuant to Article V of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular object for which the corporation is to be formed is (*state object*).

Third. The operations of the corporation are to be conducted in the county of (*state name*), and there is no corporation in such county for the purpose of conducting such operations therein.

Fourth. The principal office of the corporation is to be located in the town (*village or city*) of (*state name*).

Fifth. The number of its directors shall be (*state number, not less than five nor more than thirty*).

Sixth. The names and places of residence of the persons to be its directors until its first annual annual meeting are as follows:

Names.	Places of residence.
.....	.....
.....	.....

Seventh. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate

Dated this ..... day of ....., 189 .

(*Signatures of incorporators, not less than five.*)

STATE OF NEW YORK, }
COUNTY OF ....., } ss.:

On this ..... day of ....., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of the justice of the Supreme Court of the judicial district in which the place of business or principal office of such corporation is to be located*).

The annexed certificate is hereby approved by the New York Society for the Prevention of Cruelty to Children (*or the American Society for the Prevention of Cruelty to Animals*), power to express such approval having been delegated to me as president of such society by the board of directors thereof.

(*Signature of president.*)

NOTE.—For fees for filing and recording, see note to form No. 10.

Notice of Application to Court.

To A. B., president of the New York Society for the Prevention of Cruelty to Children (*or the American Society for the Prevention of Cruelty to Animals*): Take notice: That application having been made to such society on the ..... day of ....., 189 , for the approval of the certificate of incorporation of the (*state name of society*) and such approval not having been given within thirty days after the date of such application, we hereby give notice that on the ..... day of ....., 189 , we will apply to (*state name of justice of Supreme Court who approved certificate*) for his approval authorizing the filing thereof, notwithstanding the disapproval of such society.

Dated this ..... day of ....., 189 .

(*Signatures of persons proposing to incorporate.*)

No. 16.

Certificate of Incorporation of Hospital Corporation.

(Membership Corporations Law, § 80.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States and one of whom is a resident of the State of New York, desiring to form a hospital corporation pursuant to article VI of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular object for which the corporation is to be formed is (*state an object authorized by section* 80 *of the Membership Corporations Law*).

Third. The principal office of the corporation is to be located in the town (*village or city*) of (*state name*).

Fourth. The number of its directors shall be (*state number, not less than three nor more than thirty*).

Fifth. The names and places of residence of persons to be its directors until its first annual meeting are as follows:

Names.	Places of residence.
.....	....
.....	.....

Sixth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

Seventh. (*The certificate may, if it so desired, specify the qualification of members with respect to adherence or non-adherence to a particular school or theory of medical or surgical treatment, and the systems of medical practice or treatment to be used or applied in such hospital, infirmary, dispensary or home.*)

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this .... day of ....., 189 .

(*Signatures of incorporators, not less than five.*)

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

On this .... day of ..... 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of the justice of the Supreme Court of the judicial district in which the principal office or place of business of such corporation shall be located.*)

(*Add approval of State Board of Charities.*)

NOTE.— For fees for filing and recording, see note to form No. 10.

No. 17.

Certificate of Incorporation of a Christian Association.

(Membership Corporations Law, § 90.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States and one of whom is a resident of the State of New York, desiring to form a young men's (*or young women's*) Christian association, pursuant to article 7 of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purpose, as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular objects for which the corporation is to be formed are (*state objects*).

Third. The principal office of the corporation is to be located in the town (*village or city*) of (*state name.*)

Fourth. The number of its directors shall be (*state number, not less than five nor more than thirty.*)

Fifth. The names and places of residence of the persons to be its directors until its first annual meeting are as follows:

Names.	Places of residence.
....	.....
.....	.....

Sixth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

Seventh. The names of its trustees are (*state names of six persons to be its trustees, each of whom shall be a member of some Protestant Evangelical denomination, and not more than two of whom shall be members of any one denomination*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of not less than twenty men, if a Young Men's Christian Association, and not less than twenty women, if a Young Women's Christian Association.*)

STATE OF NEW YORK, } ss.:
COUNTY OF..... }

On this .. .. day of ....., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of a justice of the Supreme Court.*)

NOTE.—For fees for filing and recording, see note to form No. 10.

No. 18.

Certificate of Incorporation of Bar Association.

(Membership Corporations Law, § 100.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, and all of whom are attorneys or counselors of the Supreme Court of the State of New York, in actual practice, and residing or having their office in the county of (*state name of county*), desiring to form a bar association in pursuance of article VIII of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular objects for which the corporation is to be formed are (*state objects*).

Third. The county in which its operations are to be conducted is (*state name*).

Fourth. The principal business office of the corporation is to be located in the town (*village or city*) of (*state name*).

Fifth. The number of its directors shall be (*state number, not less than three nor more than thirty*).

Sixth. The names and places of residence of the persons to be its directors until its first annual meeting are as follows:

Names.	Places of residence.
.....	.....
.....	.....

Seventh. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of not less than nine attorneys residing or having their offices in the same county and in actual practice therein.*)

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

On this ..... day of ....., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of a justice of the Supreme Court.*)

NOTE.—For fees for filing and recording, see note to form No. 18.

No. 19.

Certificate of Incorporation of Veteran Soldiers and Sailors' Association.

(Membership Corporations Law, § 110.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, and all of whom are honorably discharged soldiers and sailors of the Union army or navy, (*or the male descendants of such soldiers and sailors*), desiring to become incorporated as a veteran soldiers and sailors' association pursuant to article IX of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular objects for which the corporation is to be formed are (*state objects*).

Third. The principal office of the corporation is to be located in the town (*village or city*) of (*state name*).

Fourth. The names and places of residence of the persons to be its directors until the first annual meeting are as follows:

Names.	Places of residence.
.....	.....
.....	.....

(*Insert the names and residences of fifteen persons.*)

Fifth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

(*Signatures of not less than twenty-five honorably discharged soldiers and sailors, or the male descendants thereof.*)

Dated this ..... day of .. .., 189 .

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

On this ..... day of ....., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of justice of the Supreme Court.*)

NOTE.—For fees for filing and recording, see note to form No. 19.

No. 20.

Certificate of Incorporation of Soldiers' Monument Corporation.

(Membership Corporations Law, § 120.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, desiring to form a soldiers' monument corporation, pursuant to article X of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state name*).

Second. The particular object for which the corporation is be formed is to (*state object*).

Third. The principal office of the corporation is to be located in the town (*village or city*) of (*state name*).

Fourth. The number of its directors shall be (*state number, not less than six nor more than twelve*).

Fifth. The names and places of residence of the persons to be its directors until the first annual meeting are as follows:

Names.	Places of residence.
....	....
....	....

Sixth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this ..... day of ...., 189 .

(*Signatures of incorporators, not less than three.*)

STATE OF NEW YORK,
COUNTY OF ....., } ss.:

On this ..... day of .. .., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of a justice of the Supreme Court.*)

NOTE.—For fees for filing and recording, see note to form No. 18.

No. 21.

Certificate of Incorporation of Board of Trade.

(Membership Corporations Law, § 180.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, desiring to form a board of trade corporation, pursuant to article XI of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular object for which the corporation is to be formed is (*state object*).

Third. The principal office of the corporation is to be located in the town (*village or city*) of (*state name*).

Fourth. The number of its directors shall be (*state number, not less than five*).

Fifth. The names and the places of residence of the persons to be its directors until the first annual meeting are as follows:

Names.	Places of residence.
.....	.....
.....	.....

Sixth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate.

Dated this ..... day of ....., 189 .

(*Signatures of incorporators, not less than five.*)

STATE OF NEW YORK, }
COUNTY OF..... , } *ss.:*

On this ..... day of ... ..., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of a justice of the Supreme Court.*)

NOTE.—For fees for filing and recording, see note to form No. 20.

No. 22.

Certificate of Incorporation of Agricultural Corporation.

(Membership Corporations Law, § 140.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, desiring to form an agricultural corporation for the county or town of (*state name*) (*or the towns of ....., naming two, three or four towns*), pursuant to article XII of the Membership Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The particular objects for which the corporation is to be formed are (*state objects*).

Third. The territory in which the operations of the corporation will be conducted is the county (*or town or towns*) of (*state name, but if for more than one town, not more than four towns can be named*).

Fourth. There is not any other incorporated county agricultural society in such county (*or town, as the case may be*), (*but if the society is formed for two or more towns, this recital is unnecessary*).

Fifth. The principal office of the corporation is to be located in the town (*village or city*) of (*state name*).

Sixth. The number of its directors shall be (*state number, not less than six nor more than twelve*).

Seventh. The names and places of residence of the persons to be its directors until its first annual meeting are as follows:

Names.	Places of residence.
.....	.....
.....	.....

Eighth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, we have made, signed, acknowledged and filed this certificate in duplicate

Dated this ..... day of ....., 189 .

(*Signatures of incorporators, not less than ten.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ....., 189 , before me personally came (*insert name of subscribers to certificate*) to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

Certificate of Justice.

I hereby approve of the foregoing (*or within*) certificate and of the filing thereof.

(*Signature of a justice of the Supreme Court.*)

NOTE.—For fees for filing and recording, see note to form No. 10.

No. 23.

Removal of Human Remains.

(Religious Corporations Law, § 8.)

We, the undersigned, a majority of (*corporate name*), a religious corporation organized by (*or under*) chapter ... of the Laws of 18 ..., hereby determine to remove the human remains buried in (*describe cemetery*), a cemetery owned by such corporation, to (*describe cemetery*), another cemetery owned by such corporation, in pursuance of section 8 of the Religious Corporations Law.

Dated .....

(*Majority of the trustees.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ....., 189 , before me personally came (*names of trustees subscribing determination*), to me personally known to be the persons who made and signed the foregoing determination and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

We, the undersigned, being three-fourths of the members of (*corporate name*), qualified to vote at its corporate meetings, hereby consent to the removal of the human remains buried in (*describe cemetery*) to (*describe cemetery*), in accordance with the foregoing determination of the trustees of such corporation.

Dated .....

(*Signatures of three-fourths of members of the corporation.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ...., 189 , before me personally came (*state names of members subscribing certificate*), to me personally known to be the persons who made and signed the foregoing certificate of approval, and severally duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

(*Or if such consent is not given, a special meeting of the corporation should be called and the minutes thereof attached to such determination and filed therewith in the county clerk's office.*)

Minutes of Special Meeting.

We, the undersigned, A. B., chairman, and C. D., secretary, of a special meeting of all the members of (*corporate name*), held on the ..... day of ....., 189 , at ... o'clock in the ..... noon, for the purpose of considering the determination of the trustees of such corporation to remove the human remains buried in (*describe cemetery*) to (*describe cemetery*) do certify as follows:

That the meeting was duly organized by the election of A. B. as chairman, and C. D. as secretary thereof, respectively.

(*If such religious corporation is an incorporated church, a statement should be here made, that proof of the publication of the notice of such meeting had been made for four weeks was read by the chairman.*)

Thereupon the following resolution was offered:

"*Resolved*, That the trustees of (*corporate name*) are hereby authorized to cause the human remains buried in (*describe cemetery*) to be removed to (*describe cemetery*) in accordance with their determination made on the ..... day of ....., 189 , in pursuance of section 8 of the Religious Corporations Law."

That the whole number of votes cast upon such resolution was (*state number*), of which (*state number*) votes were cast in favor thereof, being three-fourths of all the votes cast by the members of such corporation present at such meeting and voting thereon.

Thereupon such resolution was declared duly adopted in accordance with section 8 of the Religious Corporations Law, and the meeting adjourned.

In witness whereof, we have executed, acknowledged, and verified this certificate, this ..... day of ..... , 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ...., 189 , before me personally came A. B. and C. D., to me personally known to be the persons who made and signed the foregoing certificate and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

STATE OF NEW YORK,
COUNTY OF....., } ss.:

A. B. and C. D., being duly sworn by me, each deposes and says, that he has read the foregoing certificate subscribed by him and knows the contents thereof and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Severally sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

Notice of Meeting for Church.

Notice is hereby given that a special meeting of (*corporate name*) will be held at ..... on the ..... day of ....., 189 , for the purpose of considering the determination of the board of trustees of such incorporated church to remove the human remains buried in (*describe cemetery*) to (*describe cemetery*), in accordance with section 8 of the Religious Corporations Law.

Dated.....

(*Majority of the trustees.*)

STATE OF NEW YORK,
COUNTY OF....., } ss.:

E. F., being duly sworn, deposes and says, that the annexed printed notice was published in the (*name newspaper*), a newspaper of the city (*village or town in which the cemetery from which the removal is proposed to be made is situated*) once each week for four successive weeks, the first publication thereof being made on the ..... day of ....., 189 .

That the deponent is and has been since the ..... day of ....., 189 , the publisher (*or printer*) of such newspaper (*or the foreman or principal clerk of the publisher*).

E. F.

Subscribed and sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

(*Papers shall all be filed with the determination of the trustees in the county clerk's office of the county in which a part of the cemetery from which the removal is proposed to be made is situated, and the approval of three-fourths of the members of the corporation by written consent should also be recorded.*)

No. 24.

Certificate Correcting Error in Conveyances.

(Religious Corporations Law, § 10.)

I, A. B., secretary of (*corporate name*), a religious corporation organized by (*or under*) chapter ..... of the Laws of 18 , to which a conveyance of real property has been made (*or an instrument intended to operate as a conveyance of real property has been executed*) in which its corporate name is set

stated (*or is not clearly stated*), but which indicates the intention of the grantor therein to convey such property to such corporation, and such corporation has entered into possession and occupancy thereof, do hereby certify as follows:

First. That on the ..... day of ....., 189 , a conveyance of real property was made to such corporation (*or an instrument was executed intending to operate as a conveyance of real property*), which conveyance (*or instrument*) was recorded on the ..... day of ....., 18 , in the office of the county clerk of the county of ....., in liber ..... of deeds (*or other book of record*) at page .....

Second. The name of the grantor in such conveyance (*or instrument entitled to operate as a conveyance*) was .....

Third. The property conveyed or intended to be conveyed thereby is bounded and described as follows: (*describe property*).

Fourth. The name of the grantee as expressed in such conveyance (*or instrument*) was ..... (*or if no name was expressed, so state*).

Fifth. The correct name of the corporation to which such conveyance was made (*or was intended to be made*) is (*corporate name*).

Sixth. That I believe that the grantors in such conveyance (*or instrument*) intended thereby to convey such property to such corporation, and my reasons for such belief are as follows: (*state reasons*).

Seventh. That I, as secretary of the corporation, was duly authorized by the trustees thereof to make and file this statement, in pursuance of section 10 of the Religious Corporations Law.

Dated .....

A. B., *Secretary of* (*corporate name*).

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

On this ..... day of ....., 18 , before me personally came A. B., secretary of (*corporate name*), to me personally known to be the person who made and signed the foregoing certificate, and duly acknowledged to me that he made, signed and executed the same for the purposes therein set forth.

(*Signature of notary*)

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

A. B., being duly severally sworn, deposes and says, that he is the secretary of (*corporate name*), that he has read the foregoing certificate, so subscribed by him, and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated upon information and belief, and that as to those matters he believes it to be true.

A. B., *Secretary.*

Sworn to before me, this ..... day of ....., 189 .

(*Signature of notary.*)

NOTE.—The certificate should be filed and recorded in the office where the conveyance or instrument is filed or recorded.

No. 25.

Petition for the Sale, Mortgage or Lease of Real Property.

(Religious Corporations Law, § 11.)

SUPREME COURT—COUNTY OF

IN THE MATTER
OF THE
APPLICATION OF (*corporate name*) TO SELL (*mortgage or lease*) A PORTION OF ITS REAL PROPERTY.

To the Supreme Court of the State of New York (or County Court of):

The petition of (*corporate name*) respectfully shows:

First. That the name of such corporation is (*state name*), and the names of its trustees and of its principal officers, and their places of residence are as follows: (*State them.*)

Second. That such corporation was formed by ..... (*or under*) chapter ..... of the Laws of 189 , for the purpose of (*state purpose*).

Third. That as such corporation it is the owner of the following described real property (*describe same by metes and bounds with reasonable certainty*).

Fourth. That the interests of the corporation will be promoted by the sale (*mortgage or lease*) of such real property for the following reasons: (*State reasons.*)

Fifth. That at a regular stated meeting of the trustees of such corporation held on the .... day of ....., 189 , such sale (*mortgage or lease*) was authorized by the concurring vote of more than two-thirds of the trustees of such corporation, as more fully appears by the copy of such resolution hereunto annexed, and made a part of this petition. (*If an Episcopal church, the petition shall also state that the rector of such church was present at the meeting.*)

Sixth. That the market value of the remaining real property of such corporation, upon which there is no incumbrance is (*state value*); that the cash value of its personal assets is (*state value*), and the total amount of its debts and liabilities is (*state amount*), secured as follows: (*State security.*)

Seventh. The moneys realized from the sale (*mortgage or lease*) of such real property is to be applied to (*state application proposed*).

Wherefore, your petitioner asks that an order of this court be entered giving it leave to sell (*mortgage or lease*) the real property above described upon the terms aforesaid, and that the moneys realized from such mortgage be applied as above specified.

Dated.....

(*Signatures of two-thirds of the trustees.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

(*State names of trustees petitioning*) being duly and severally sworn, each deposes and says that he has read the foregoing petition subscribed by him and knows the contents thereof, and that the same is true and correct of his own knowledge.

(*Signature of two-thirds of the trustees.*)

Severally sworn to before me, this..... }
day of ....., 189 . }

(*Signature of notary.*)

(*If the petition is made by the trustees of a Roman Catholic church, it should have indorsed thereon the consent of the archbishop or bishop of the diocese to which such church belongs, or in case of their absence or inability to act, by the vicar-general or administrator of the diocese.*)

Order.

At a Special Term of the Supreme Court, held at ....., on the .....
day of ....., 189 .

Present— Hon. (*state name of justice*).

IN THE MATTER
OF THE
APPLICATION OF (*corporate name*) TO SELL (*mortgage or lease*) A PORTION OF ITS REAL PROPERTY.

Petition having been made to me by (*corporate name*) a corporation organized by (*or under*) chapter ..... of the Laws of 189 , for leave to sell (*mortgage or lease*) a portion of its real property, in pursuance of section 11 of the Religious Corporations Law, and title 2 of chapter 23 of the Code of Civil Procedure, now on motion of ....., attorney for the petitioner,

Ordered, That the trustees of such corporation are hereby authorized to sell (*mortgage or lease*) such real property for the sum of (*state sum*) and to execute and deliver to ....., a deed (*mortgage or lease*) in the usual form; such real property is described in said petition as follows: (*Description.*)

It is further ordered, that the proceeds of such sale (*mortgage or lease*) be applied by said trustees as follows: (*State application to be made of the funds.*)

Dated .....

A. B., *Justice of the Supreme Court.*

Certificate of Authority.

I, A. B., secretary of (*corporate name*) do hereby certify that a regular meeting of the trustees of such corporation was held on the ..... day of ....., 189 , at which the following resolution was adopted by the concurring votes of two-thirds of the trustees of such corporation:

"*Resolved*, That the trustees of (*corporate name*) be hereby authorized to apply to the court in pursuance of section 11 of the Religious Corporations Law for leave to sell (*mortgage or lease*) the real property of the corporation, described as follows: (*Description.*)

A. B., *Secretary.*

Subscribed and sworn to before me, this ..... day of ....., 189 .

(*Signature of notary.*)

NOTE.—On entry of the order, the sale, mortgage or lease may be effected.

No. 26.

Consolidation of Incorporated Churches.

(Religious Corporations Law, § 12.)

Agreement for Consolidation.

This agreement, made the ..... day of ....., 189 , between the board of trustees of (*corporate name*), party of the first part, and the board of trustees of (*corporate name*), party of the second part, under the corporate seals of such churches,

Witnesseth, That (*corporate name*), party of the first part, is a church corporation organized by (*or under*) chapter ..... of the Laws of 189 , for the purpose of (*state purpose*).

That (*corporate name*), party of the second part, is a church corporation organized by (*or under*) chapter ..... of the Laws of 189 , for the purpose of (*state purpose*).

That, in consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby agree to merge and consolidate such corporations into a single corporation in pursuance of section 12 of the Religious Corporations Law, upon the following terms and conditions:

First. The name of the church formed by such consolidation shall be (*insert corporate name*).

Second. The church formed by such consolidation shall be of the (*state denomination*) denomination, and subject to the governing bodies and authorities of such denomination.

Third. (*If the churches of the denomination to which the new church is to belong have more than one method of choosing trustees, state the method by which the trustees of the new corporation are to be chosen.*)

Fourth. The number of trustees of the corporation formed by such consolidation shall be (*state number*).

Fifth. The names and places of residence of the persons to be the trustees of the corporation formed by such consolidation until its first annual meeting are as follows:

Names.	Places of residence.
.....	.....
.....	.....

Sixth. The date for holding its annual meeting shall be (*state the day of the month on which its annual meeting is to be held*).

In witness whereof, said parties of the first and second parts have executed this agreement in duplicate by their boards of trustees respectively, the day and year above mentioned.

[*Corporate seal.*] .....
.....
.....
Trustees of (*corporate name*).

[*Corporate seal.*] .....
.....
.....
Trustees of (*corporate name*).

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

On this ..... day of .. .., 189 , before me personally came (*names of trustees of the corporation of the first part*), trustees of (*corporate name*), to me personally known to be the persons who made and signed the foregoing agreement and severally acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

(*Prepare the same form of acknowledgment for the directors of the corporation of the second part and annex thereto.*)

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

A. B., being duly sworn, deposes and says, that he is a trustee of (*name of corporation, party of the first part*), mentioned in the foregoing agreement; that he knows the corporate seal of such corporation, and that the seal affixed to such agreement is the corporate seal of such corporation and was affixed thereto by order of the board of trustees thereof.

A. B.

Sworn to before me, this ..... }
day of ....., 189 . }

(*Notary's signature.*)

(*Prepare same affidavit for a trustee of the corporation of the second part and annex thereto.*)

Verified Copy of Proceedings of Meeting Approving Consolidation.

A special meeting of the members of (*corporate name*) for the purpose of submitting to said members the annexed agreement for the consolidation of (*corporate name*) with (*corporate name*) was held at (*name of place*) in the city (*village or town*) of .... on the ..... day of ....., 189 , at .... o'clock in the .....noon of that day.

The meeting was organized by the election of A. B. as chairman and C. D. as secretary thereof, respectively.

The annexed agreement was thereupon submitted to the members for their approval, and after consideration a vote was taken by ballot upon the question of approving or rejecting the same.

The whole number of votes cast upon said question was (*state number*) of which (*state number*) votes were cast in favor of approving such agreement, being a majority of all the votes lawfully cast by the members of such corporation present and voting thereon.

Thereupon such agreement of consolidation was declared duly approved and adopted by such corporation, and the meeting adjourned.

In witness whereof, we have made, signed and verified the foregoing copy of proceedings this ..... day of ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, }
COUNTY OF ....., } ss.:

A. B., chairman, and C. D., secretary, being duly and severally sworn, deposes and says, each for himself, that he has read the foregoing statement of proceedings of a special meeting of the members of (*corporate name*) for the purpose of considering the question of consolidation of such corporation with (*corporate name*), and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Secretary.*

Severally sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

(*Prepare the same form of statement and verification for the other consolidating corporation, and annex the same. Attach to such agreement the approval of the governing body, if any, of each of the churches forming such consolidation.*)

Petition.

SUPREME COURT—COUNTY OF ALBANY.

IN THE MATTER
OF THE
CONSOLIDATION OF (*corporate name*)
AND (*corporate name*).

The petition of (*corporate name*) respectfully shows to this court,

That (*corporate name*) and (*corporate name*), by their respective boards of trustees, on the ..... day of ....., 189 , entered into an agreement for the consolidation of such corporations into a new corporation, in pursuance of section 12 of the Religious Corporations Law, as follows: (*Insert copy of agreement.*)

That such agreement was duly approved at a meeting of each corporation separately and specially called for that purpose, by a majority of the votes of the members of each of such corporations lawfully cast at such meeting, as appears by the verified statements of the chairman and secretary of each of such meetings, respectively, hereto annexed, and made a part of this petition;

That (*corporate name of petitioner*) is a church corporation subject to the rules and regulations of the authorities and governing body of (*state denomination*) and the governing body of such denomination has consented to such consolidation, as appears by the consent thereof, hereunto annexed and made a part of this petition.

The property of (*corporate name*) is as follows: (*specify property*); the liabilities of such corporation are as follows: (*specify liabilities*); the amount and sources of the annual income of such corporation are as follows: (*specify sources of annual income.*)

Wherefore, your petitioner prays for an order consolidating such corporations in accordance with the terms and conditions of the agreement hereunto annexed, in pursuance of section 12 of the Religious Corporations Law.

Dated this ..... day of ....., 189 .

.....
.....
Trustees of (*corporate name.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ..... }

(*Names of trustees*), being duly and severally sworn, deposes and says, each for himself, that he has read the foregoing petition subscribed by him, and knows the contents thereof, and that the same is true and correct.

.....
.....
Trustees of (*corporate name.*)

Severally sworn to before me, this ..... day of ....., 189 .

(*Signature of notary.*)

(*Prepare same petition for the trustees of the other consolidating corporation.*)

Order.

At a Special Term of the Supreme Court, held at ....., on the ..... day of ....., 189 .

Present—Hon. (*name of justice*).

In the Matter
of the
Consolidation of (*corporate name*)
and (*corporate name*).

Petition having been made to this court by (*corporate name*) and (*corporate name*), in pursuance of section 12 of the Religious Corporations Law, for an order consolidating such churches, and it appearing from such petitions that such corporations have duly entered into an agreement for the consolidation thereof and that the same has been duly approved by a majority of the votes lawfully cast at a meeting of each of such corporations, separately and specially called for that purpose, and also by the governing bodies of the denomination to which each of such churches belongs, and having heard ..... in favor of such petition and ..... in opposition thereto, now, on motion of ..... attorneys for (*corporate name*),

Ordered, That upon the entry of this order, in pursuance of section 12 of the Religious Corporations Law, such corporations shall be consolidated into a new corporation, upon the following terms and conditions:

First. The name of such new corporation shall be (*state name*).

Second. The first trustees of such corporation shall be (*state name*).

Third. The successors to such trustees shall be chosen in the following manner (*describe manner of choosing successors of trustees*):

(*Add such of the terms and conditions of the agreement as to the court may seem proper.*)

Dated .....

(*Signature of notary.*)

Note.—Upon due entry of such order, the consolidation is effected. A copy of such order shall be recorded in a book for recording certificates of incorporation in each county clerk's office in which the certificate of incorporation of each consolidating corporation was recorded, or if no certificate has been so recorded, in the clerk's office of the county in which the principal place of worship or principal office of the new corporation is to be situated. The fees for filing in clerk's office are six cents; for recording, 10 cents per folio.

No. 27.

Judicial Investigation of Amount of Property of Religious Corporation.

(Religious Corporations Law, § 13.)

SUPREME COURT — COUNTY OF ALBANY.

IN THE MATTER
OF THE
INVESTIGATION OF AMOUNT ON PROPERTY OF (*corporate name*).

Your applicant respectfully shows to this court (*on information and belief*):

First. That (*corporate name*) is a religious corporation incorporated by (*or under*) chapter ..... of the Laws of 189 .

Second. That in pursuance of the law by (*or under*) which such corporation is incorporated, or to the provisions of which it is subject, such corporation is entitled to hold property the value of which does not exceed ..... dollars.

Third. That the value of the property now held by such corporation is ..... dollars.

Fourth. That the value of such property is in excess of the amount which such corporation is entitled to hold in pursuance of law.

Wherefore, your applicant requests that an order be granted in pursuance of section 13 of the Religious Corporations Law, requiring such corporation to make and file an inventory of the amount of its property, and that a referee be appointed to take and state the amount of such property, and that a final order be granted by this court determining the amount of property held by such corporation and the annual income thereof.

Dated .....

.....
Attorney-General of the State of New York.

STATE OF NEW YORK,
COUNTY OF....., } *ss.:*

....., Attorney-General of the State of New York, being duly sworn, deposes and says, that he has read the foregoing application, subscribed by him, and knows the contents thereof, and that the same is true and correct of his own knowledge (*or that the same is true and correct as he is informed and verily believes*).

.....
Attorney-General of the State of New York.

Subscribed and sworn to before me, this ..... day of....., 189 .

(*Signature of notary.*)

Notice of Application.

At a Special Term of the Supreme Court, held at ..... on the ..... day of ....., 189 .

Present — Hon. (*name of justice*).

In the Matter
of the
Investigation of the Amount of Property of (*corporate name*).

Upon reading and filing the application of ...., Attorney General of the State of New York, in the above entitled proceeding, dated ....., 189 , praying for an order in pursuance of section 13 of the Religious Corporations Law, requiring (*corporate name*) to make and file an inventory and account of its property, on motion of ....., Attorney-General of the State of New York,

Ordered, That the trustees of such corporation be required to show cause before me at ...., on the ..... day of ... ., 189 , why they should not make and file such an inventory and account.

It is hereby further ordered, That a copy of such application and of this order be served upon the trustees of such corporation, personally, on or before the ..... day of ....., 189 .

(*Signature of justice of the Supreme Court.*)

(*Proof of service of the application and notice should be presented to the court.*)

At a Special Term of the Supreme Court, held at ....., on the ..... day of ....., 189 .

Present — Hon. (*name of justice*).

In the Matter
of the
Investigation of the Amount of Property of (*corporate name*).

Application having been made to this court by the Attorney-General of the State of New York, in pursuance of section 13 of the Religious Corporations Law for an order requiring (*corporate name*) to make and file an inventory and account of its property; and proof having been made to me of

the personal service of such application, together with a notice of the time and place of presentation thereof, on the trustees of (*corporate name*), at least eight days prior thereto, and having heard ..... in favor of such application and ..... in opposition thereto, and no good cause being shown why such corporation should not be required to make and file such inventory and account,

Ordered, That A. B., of ... ., be appointed referee herein, and he is hereby directed to make and file with this court an inventory and account of the corporate property of such corporation in pursuance of section 13 of the Religious Corporations Law, and report to this court on or before the ..... day of ....., 189 .

(*Signature of justice of the Supreme Court.*)

(*When such referee's report has been made, either party may give notice of an application to the court for confirmation of the report of the referee and for an order finally determining the amount of property held by such corporation.*)

Final Order.

At a Special Term of the Supreme Court, held at ..... on the ..... day of ....., 189 .

Present — Hon. (*name of justice*).

In the Matter
of the
Investigation of the Amount of
Property of (*corporate name*).

Application having been presented to this court by ....., Attorney-General of the State of New York, for an order requiring (*corporate name*) to make and file an inventory and amount of property of such corporation in pursuance of section 13 of the Religious Corporations Law, and A. B. having been appointed referee to take and state the amount of such property by an order of this court, dated ....., and such referee having made and filed with this court an inventory and account of the property of such corporation, now on application of ..... and having heard ..... in relation thereto,

It is ordered and determined, That the amount of property now held by such corporation is (*state value*), the annual income from which is (*state income*).

Dated ....

(*Signature of justice of the Supreme Court.*)

No. 28.

Incorporation of Governing Bodies.

(Religious Corporations Law, § 14.)

We, the undersigned, A. B., chairman, and C. D., clerk of (*state name of governing body*) do hereby certify as follows:

That a stated meeting of such (*state name of governing body*) was held at ..... on the ..... day of ....., 189 .

That at such meeting the undersigned, A. B., acted as chairman, and the undersigned, C. D., acted as clerk.

That the following resolution was offered:

"*Resolved*, That (*name of unincorporated governing body*) shall become a corporation in pursuance of section 14 of the Religious Corporations Law, by the name of (*state corporate name desired*); that (*state names of not less th n three nor more than nine persons*) be the first trustees of such corporation; and that the presiding officer and clerk of (*state name of governing body*) be hereby directed to execute, acknowledge and file a certificate effecting such incorporation, in pursuance of section 14 of the Religious Corporations Law."

That upon the question of the adoption of such resolution (*state number*) votes were cast, of which (*state number*) votes were cast in favor thereof, being a plurality of votes of all the members of such presbytery (*or other governing body*) present and voting thereon.

That such resolution was thereupon declared duly adopted.

In witness whereof, we have made, signed, acknowledged, verified and filed this certificate.

Dated this ..... day of ....., 189 .

A. B., *Chairman.*
C. D., *Secretary.*

STATE OF NEW YORK, } *ss.:*
COUNTY OF ....., }

A. B., chairman, and C. D., clerk, being duly and severally sworn, each deposes and says, that he has read the foregoing certificate subscribed by him and knows the contents thereof, and that the same is true and correct of his own knowledge.

A. B., *Chairman.*
C. D., *Clerk.*

Severally sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

STATE OF NEW YORK, } *ss.:*
COUNTY OF....., }

On this ..... day of ....., 189 , before me personally came A. B. and C. D., to me personally known to be the persons described in and who made and signed the foregoing certificate and duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

NOTE — Certificate should be filed in the office of the county clerk. Fees for filing are six cents; for recording, 10 cents per folio.

No. 29.

Certificates of Incorporation of Corporation for Maintaining Mission Churches and Sunday Schools.

(Religious Corporations Law, § 16.)

We, the undersigned, all being persons of full age, at least two-thirds of whom are citizens of the United States, and one of whom is a resident of the State of New York, being members of (*state names of churches of which they are members*), desiring to form a corporation for the purpose of organizing and maintaining a mission church (*or a Sunday school*) at (*and places in the vicinity of such churches*) and of acquiring property therefor, in pursuance of section 16 of the Religious Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes as follows:

First. The name of the proposed corporation is (*state corporate name*).

Second. The principal office (*or place of worship*) of the corporation is to be located in the city of (*state name*).

Third. The members of (*state names of churches*) shall be admitted to membership in such corporation in pursuance of the by-laws thereof.

Fourth. The number of its trustees shall be (*three, six or nine*).

Fifth. The names and places of residence of its trustees for the first year of its existence are as follows:

Names.	Places of residence.
.....	.....
.....	.....

In witness whereof, we have made, signed, acknowledged and filed this certificate this ..... day of ....., 189 .

(*Signatures of incorporators, not less than ten.*)

STATE OF NEW YORK, }
COUNTY OF ....., } ss.:

On this ..... day of ....., 189 , before me personally came (*insert names of subscribers to certificate*), to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally duly acknowledged to me that they made, signed and executed the same for the uses and purposes therein set forth.

(*Signature of notary.*)

NOTE.—The certificates should be filed in the office of the county clerk of the county in which the principal office or place of worship of the corporation is intended to be located.

Fees for filing, six cents; for recording, 10 cents per folio. If such mission church should desire to incorporate as a separate church, the proceedings for incorporation should be the same as for a church of the denomination to which it belongs.

(*See article applicable to such denomination.*)

No. 30.

Incorporation of Corporations for Acquiring Parsonages for Presiding Elders or Camp Meeting Grounds

(Religious Corporations Law, § 17.)

We, the undersigned, A. B., presiding elder, and C. D. and E. F., etc., a majority of the district stewards, residing within (*state name*) a presiding elder's district, erected by the (*state name*) annual conference of the Methodist Episcopal Church, desiring to become incorporated in pursuance of section 17 of the Religious Corporations Law, for the purposes of acquiring, maintaining and improving real property as a parsonage for the presiding elder of such district (*or as a camp ground for camp meeting purposes, or for both of such objects*) do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name of the proposed corporation is (*state name*).

Second. The object for which the corporation is to be formed is (*state object*).

Third. The name of such presiding elder's district is (*state name*).

Fourth. The name of the annual conference by which such presiding elder's district was erected is (*state name*).

Fifth. The names, residences and official relation to such district of the signers of this certificate are respectively as follows:

Names.	Residence.	Official relation.
.....	.....	.....
.....	.....	.....

Sixth. The number of trustees of such corporation shall be (*state number, three or some multiple of three, not more than twenty-one*).

Seventh. The names of the trustees to hold office for three years are (*names of one-third of the trustees*); the names of the trustees to hold office for two years are (*names of one-third of the trustees*); and the names of the trustees to hold office for one year are (*names of one-third of the trustees*).

In witness whereof, we have made, signed, acknowledged and filed this certificate on this ..... day of ....., 189 .

(*Signatures of presiding elder and a majority of the district stewards.*)

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

On this ..... day of ....., 189 , before me personally came (*names of subscribers*), personally known to me to be the persons described in and who made and signed the foregoing certificate, and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.— Certificates should be filed in the county clerk's office of the county in which the presiding elder's district, or a part thereof, is located. Fees for filing, six cents; for recording, 10 cents per folio.

Certificates of Presiding Elder and Stewards of Adjoining District.

We, the undersigned, A. B., presiding elder, and C. D. and E. F., a majority of the district stewards of (*state name*), a presiding elder's district, erected by the (*state name*) annual conference of the Methodist Episcopal Church, desiring to constitute the presiding elder and stewards of such district members of a corporation formed by the presiding elder and district stewards of (*state name*), an adjoining presiding elder's district, having as one of its objects the acquisition, maintenance and improvement of real property as a camp-meeting ground for camp-meeting purposes, do hereby make, sign, acknowledge and file this certificate in pursuance of section 17 of the Religious Corporations Law, as follows:

First. The name of such presiding elder's district is (*state name*).

Second. The name of the presiding elder's district with which it is desired to become associated is (*state name*).

Third. The names, residence and official relation to such presiding elder's district of the signers of this certificate are as follows:

Names.	Residence.	Official relation.
.....	.....	.....
.....	.....	.....

In witness whereof, we have made, signed, acknowledged and filed this certificate this ..... day of ....., 189 .

(Signatures of presiding elder and a majority of the district stewards.)

STATE OF NEW YORK,
COUNTY OF ....., } ss.:

On this ..... day of....., 189 , before me personally came (*names of subscribers*) personally known to me to be the persons described in and who made and signed the foregoing certificate and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

(*The consent of the original corporation should be indorsed on the certificate and the certificate filed in the county clerk's office of the county in which the district, or a part thereof, is located. Fees for filing, six cents; for recording, 10 cents per folio.*)

Certificate Changing the Number of Trustees.

We, the undersigned, a majority of the trustees of (*state corporate name*), a corporation formed by the presiding elder and district stewards of (*state name of presiding elder's district*) in pursuance of chapter ..... of the Laws of 189 , do hereby certify as follows:

That an annual (or *special meeting duly called therefor*) of such corporation was held on the ..... day of ....., 189 , at ..... o'clock in the ....., noon.

That at such meeting the following resolution was offered:

"*Resolved*, That the number of trustees of such corporation be changed from (*state existing number*) to (*three or some multiple of three or not more than twenty-one*), in pursuance of section 17 of the Religious Corporations Law, and that the trustees of such corporation be directed to sign, acknowledge and file the necessary certificate therefor."

That such a resolution was duly adopted by a majority vote of the members of such corporation present at such meeting and voting thereon.

In witness whereof, we have made, signed, acknowledged and filed this certificate on this ..... day of ..... , 189 .

(*Signatures of a majority of trustees.*)

STATE OF NEW YORK, }
COUNTY OF ....., } *ss.:*

On this ..... day of ....., 189 , before me personally came (*names of subscribers*) personally known to me to be the persons who made and signed the foregoing certificate, and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

No. 31.

Notice of Meeting for Incorporation of Episcopal Church.

(Religious Corporations Law, § 30.)

Notice is hereby given that a meeting of the members of (*state name of church*) will be held on the ..... day of ....., 189 , at ..... o'clock in the ..... noon for the purpose of determining whether such society shall become incorporated, and if the decision be in favor thereof, of determining the date of the annual election of the proposed corporation, and of electing vestrymen and churchwardens thereof.

No. 32.

Certificate of Incorporation of Episcopal Church.

(Religious Corporations Law, § 31.)

We, the undersigned, A. B., chairman, and C. D. and E. F., do hereby certify as follows:

First. That a notice of a meeting of the members of (*state name of unincorporated church*), to determine whether such church should become incorporated, was duly given in pursuance of section 30 of the Religious Corporations Law, and such meeting was held in accordance therewith on the ..... day . . .., 189 , at ..... o'clock in the .. ....noon.

Second. That A. B. was presiding officer of such meeting, and C. D. and E. F. were present at such meeting and voted thereat.

Third. At such meeting it was determined to incorporate such church as a religious corporation in pursuance of section 31 of the Religious Corporations Law.

Fourth. The name of the proposed corporation as decided upon by such meeting is (*state name*).

Fifth. The principal place of worship of such corporation is to be located in the county of ...., in the town (*village or city*) of (*state name*).

Sixth. The date of holding the annual election of such corporation shall be (*state a secular day of the week commencing with the first Sunday in Advent*).

Seventh. The number of vestrymen decided upon at such meeting was (*state number*).

Eighth. The names and terms of office of the vestrymen elected by such meeting are, respectively, as follows:

Names.	Terms of office.
....	....
....	.....

Ninth. The names and terms of office of the churchwardens elected at such meeting are, respectively, as follows:

Names.	Terms of office.
.....	....
....	.....

In witness whereof, we have made, signed, acknowledged and filed this certificate on this ..... day of ....., 189 .

(*Signatures of the presiding officer of the meeting and of two persons present and voting thereat.*)

STATE OF NEW YORK,
COUNTY OF ....., } ss.:

On this ..... day of ..... , 189 , before me personally came (*names of subscribers*), personally known to me to be the persons described in and who made and signed the foregoing certificate and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary*)

NOTE. — Certificate should be filed in the office of the county clerk of the county in which the principal place of worship of such church is, or is to be, located. Fees for filing, six cents; for recording, 10 cents per folio.

No. 33.

Notice of Annual Elections of the Episcopal Church.

(Religious Corporations Law, § 33.)

Notice is hereby given that the annual election of (*corporate name*) will be held on the ..... day of ....., 189 , immediately after morning service, and that at such election a churchwarden and (*state number*) of vestrymen will be elected to fill the vacancies occurring by reason of expiration of the terms of office of (*state names of officers*).

No 34.

Certificate Changing the Number of Vestrymen of Episcopal Church.

(Religious Corporations Law, § 34.)

We, the undersigned, A. B., presiding officer, and C. D. and E. F., do certify as follows:

That the annual meeting of (*corporate name*) was held on the ..... day of ....., 189 , at ..... o'clock in the .....noon.

That A. B. was the presiding officer of such meeting and C. D. and E. F. were present and qualified to vote thereat.

That at such meeting the following resolution of the vestry of such corporation was submitted for consideration:

"*Resolved*, That the vestry of (*corporate name*) recommend that the number of vestrymen of such parish be changed from (*state existing number*) to (*three, six or nine*), in pursuance of section 34 of the Religious Corporations Law, and that a notice of such recommendation be included in the notice of the next annual meeting of such parish."

That notice of such resolution was included in the notice of such annual meeting.

That such resolution was ratified by a majority of votes of the members of such corporation present at such meeting and voting thereat.

That the number of vestrymen of such parish, as determined by such meeting, shall hereafter be (*state number, three, six or nine*).

In witness whereof, we have made, signed, acknowledged, verified and filed this certificate on the ..... day of ....., 189 .

(*Signatures of presiding officer and of two qualified voters present at the election.*)

STATE OF NEW YORK,
COUNTY OF ....,} ss.:

A. B., presiding officer, and C. D. and E. F., being duly sworn, each deposes and says, that he has read the foregoing certificate, subscribed by him, and knows the contents thereof, and the same is true and correct of his own knowledge.

A. B.
C. D.
E. F.

Severally sworn to before me, this .... day of ....., 189 .

(*Signature of notary.*)

STATE OF NEW YORK,
COUNTY OF .... } *ss.:*

On this ..... day of ...., 189 , before me personally came (*names of subscribers*) to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.— Certificate should be filed in the office of the county clerk in which the original certificate was filed. Fees for filing, six cents; for recording, 10 cents per folio.

No. 35.

Certificate Changing Date of Annual Election, Number and Terms of Office of Vestrymen and Terms of Churchwardens of Episcopal Church.

(Religious Corporations Law, § 35.)

We, the undersigned, A. B., presiding officer, and C. D. and E. F., do certify as follows:

That the annual meeting of (*corporate name*) was held on the ..... day of ....., 189 .

That A. B. was the presiding officer of such meeting, and C. D. and E. F. were present and qualified to vote thereat.

That at such meeting the following resolution of the vestry was submitted for consideration:

"*Resolved*, That the vestry of (*corporate name*) recommend that the date of the annual election of such church be changed to a secular day of the week beginning with the first Sunday in Advent (*or that the number of vestrymen be changed to three, six or nine, and that the terms of the churchwardens be changed so that one warden shall be elected annually*), and that a notice of such recommendation be included in the notice of the next annual meeting of such parish."

That notice of such resolution was included in the notice of such annual meeting.

That such resolution was ratified by a majority of votes of all the members of such corporation present at such meeting and voting thereat.

That the date determined upon for the annual meeting of the parish was (*state the date*) (*or that the number of vestrymen so decided on was ....., and the meeting determined to thereafter elect churchwardens so that the term of one warden shall expire annually.*)

In witness whereof, we have made, signed, acknowledged, verified and filed this certificate on the ..... day of ....., 189 .

(*Signatures of presiding officer and of two qualified voters present at the election.*)

STATE OF NEW YORK, } ss.:
COUNTY OF..... ,

A. B., presiding officer, and C. D. and E. F., being duly sworn, each deposes and says, that he has read the foregoing certificate, subscribed by him, and knows the contents thereof, and the same is true and correct of his own knowledge.

A. B.
C. D.
E. F.

Severally sworn to before me, this ..... }
day of ....., 18 .

(*Signature of notary.*)

STATE OF NEW YORK, } ss.:
COUNTY OF....., }

On this ..... day of ....., 189 , before me personally came A. B., C. D. and E. F., to me personally known to be the persons described in and who made and signed the foregoing certificate, and duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—See note to form No. 34.

No. 36.

Certificate Changing the Qualifications of Voters and the Qualifications of Wardens and Vestrymen of the Episcopal Church.

(Religious Corporations Law, § 36.)

We, the undersigned, A. B., presiding officer, and C. D. and E. F., do certify as follows:

That the annual meeting of (*corporate name*) was held on the ..... day of ....., 189 .

That A. B. was the presiding officer of such meeting, and C. D. and E. F. were present and qualified to vote thereat.

That at such meeting the following resolution of the vestry of such corporation was submitted for consideration:

"*Resolved*, That the vestry of (*corporate name*) recommend that the qualifications of voters at the corporate meetings of such church be changed so that only men of full age who have been regular attendants on the worship of such parish or congregation, and contributed to the support thereof for one year next prior to such meeting, (*or since establishment of such parish or congregation*) shall be qualified to vote thereat; that the vestrymen of such parish shall be qualified voters who have been baptized, and that the wardens shall be qualified voters who have been communicants of the Protestant Episcopal Church; and that a notice of such recommendation be included in the notice of the next annual meeting of such parish.

That notice of such resolution was included in the notice of such annual meeting.

That such resolution was ratified by a majority of votes of the members of such corporation present at such meeting and voting thereat.

In witness whereof, we have made, signed, acknowledged, verified and filed this certificate on the ..... day of ..... , 189 .

(*Signatures of presiding officer and of two qualified voters present at the election.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ...., }

A. B., presiding officer, and C. D. and E. F., being duly sworn, each deposes and says, that he has read the foregoing certificate, subscribed by him, and knows the contents thereof, and the same is true and correct of his own knowledge.

A. B.
C. D.
E. F.

Severally sworn to before me, this ..... day of ....., 189 . }

(*Signature of notary.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ....., 189 , before me personally came, A. B., presiding officer, and C. D. and E. F., to me personally known to be the persons described in and who made and signed the foregoing certificate, and duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—See note to form No. 34.

No. 37.

Certificate of Incorporation of Roman Catholic or Greek Church.

(Religious Corporations Law, § 50.)

We, the undersigned, A. B., archbishop (*or bishop*) and C. D., vicar-general of the diocese of (*state name*), E. F., rector, and F. G. and O. F., desiring to incorporate (*state name of unincorporated church*) as a Roman Catholic church in pursuance of section 50 of the Religious Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purposes, as follows:

First. The name by which such church shall be known is (*state corporate name.*)

Second. The principal place of worship of the church corporation is to be located in the town (*village or city*) of (*state name*).

Third. F. G. and O. F. are two laymen members of such church selected by the archbishop, vicar-general and rector thereof to execute this certificate.

In witness whereof, we have made signed, acknowledged and filed this certificate this ..... day of ....., 189 .

(*Signatures of archbishop, vicar-general, rector and two laymen.*)

STATE OF NEW YORK,
COUNTY OF ....., } ss.:

On this ..... day of ....., 189 , before me personally came A. B., archbishop; C. D., vicar-general; E. F., rector, and F. G. and O. F., to me personally known to be the persons described in and who made and signed the foregoing certificate and duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

(*Certificate of the Greek church should be in the same form except as to the persons executing it.*)

NOTE. — Certificate should be filed in the office of the county clerk of the county in which the principal place of worship of the church is, or is to be, located. Fees for filing, six cents; for recording, 10 cents per folio.

No. 38.

Certificate of Incorporation of Reformed Dutch, Reformed Presbyterian or Lutheran Church.

(Religious Corporations Law, § 62.)

We, the undersigned, the minister (*or ministers*) and the elders and deacons of (*state name of church, or if a Presbyterian church, the deacons only, if authorized by the church*), desiring to incorporate such church in pursuance of section 62 of the Religious Corporations Law, do hereby make, sign, acknowledge and file this certificate for such purpose, as follows:

First. The name of such incorporated church shall be (*state name*).

Second. The principal place of worship of such church is to be in the county of ....., in the town (*city or village*) of (*state name*).

(*If it be an Evangelical Lutheran church, add a recital that at a meeting of the members of such church, duly called and held on the ..... day of ....., 189 , it was determined to incorporate in pursuance of article IV of the Religious Corporations Law.*)

(*If the certificate is to be made by the deacons of a Reformed Presbyterian church, add a recital that the deacons of such church were authorized by the members of such church to incorporate such church in pursuance of section 62 of the Religious Corporations Law.*)

In witness whereof, we have made, signed, acknowledged and filed this certificate this ..... day of ....., 189 .

(*Signatures of persons making certificate, with designations of their offices.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ....., 189 , before me personally came (*names of subscribers*) to me personally known to be the persons described in and who made and signed the foregoing certificate, and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—Certificate should be filed in the office of the county clerk of the county in which the principal place of worship of the church is, or is to be, located. Fees for filing, six cents; for recording, 10 cents per folio.

No. 39.

Certificate Changing System of Choosing Trustees of Reformed Church.

(Religious Corporations Law, § 64.)

We, the undersigned, A. B., C. D. and E. F., a majority of the trustees of (*corporate name*) do certify as follows:

First. That a meeting of the trustees of such corporation was held on the ..... day of ....., 189 , at ..... o'clock in the .....noon; and a quorum of the trustees of such corporation were present thereat.

Second. That at such meeting the trustees of such corporation determined, in pursuance of section 64 of the Religious Corporations Law, that thereafter the trustees of such corporation should be elected in pursuance of article V of the Religious Corporations Law, and that the number thereof should be (*state number, three, six or nine*).

Third. That at such meeting of the trustees of such corporation the date of the annual corporate meeting of such church was fixed for (*state the day of the month determined upon*).

In witness whereof, we have made, signed, acknowledged and filed this certificate this .... day of ....., 189 .

(*Signature of a majority of the trustees.*)

STATE OF NEW YORK, } ss.:
COUNTY OF ....., }

On this ..... day of ....., 189 , before me personally came A. B., C. D. and E. F., trustees of (*corporate name*), personally known to me to be the persons described in and who made and signed the foregoing certificate and duly acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—Certificate should be filed in the office of the county clerk of the county in which the original certificate of incorporation of such church is filed. Fees for filing, six cents; for recording, 10 cents per folio.

No. 40.

Certificate of Trustees of Lutheran Church Changing System of Electing Trustees.

(Religious Corporations Law, § 66.)

We, the undersigned, A. B., C. D. and E. F., a majority of the trustees of (*corporate name*), do certify as follows:

First. That a meeting of such corporation was held on the ..... day of ....., 189 , at ..... o'clock in the ..... noon.

Second. That at such meeting it was determined, in pursuance of section 66 of the Religious Corporations Law, by a majority of the members of such corporation present and voting on such proposition, that thereafter the minister (*or ministers*), elders and deacons thereof shall constitute the trustees thereof.

Third. That the names and official designations of the minister (*or ministers*) and of the elders and deacons of such church are as follows:

Names.	Official designation.
.....	.....
.....	.....

In witness whereof, we have made, signed, acknowledged and filed this certificate this ..... day of ....., 189.

(*Signatures of a majority of the trustees.*

STATE OF NEW YORK, }
COUNTY OF ....., } ss.:

On this ..... day of ..... , 189 , before me personally came (*names of subscribers*), personally known to me to be the persons described in and who made and signed the foregoing certificate, and severally acknowledged to me that they made, signed, acknowledged and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—See note to form No. 39.

No. 41.

Notice of Meeting for Incorporating Church.

(Religious Corporations Law, § 81.)

Notice is hereby given that a meeting of (*state name of unincorporated church*), will be held at the usual place of worship of such church on the ..... day of ....., 189 , at .... o'clock in the . .... noon, to determine whether such church shall become incorporated, and if the decision is in favor thereof, of electing trustees of such corporation. (*Notice should be signed by at least six persons qualified as provided by section 81 of the Religious Corporations Law.*)

No. 42.

Certificate of Incorporation of Church, General.

(Religious Corporations Law, § 83.)

We, the undersigned, A. B., presiding officer, and C. D. and E. F., do hereby certify as follows:

First. That a notice of the meeting of the members of (*state name of unincorporated church*), to determine whether such church should become incorporated, was duly given in pursuance of section 81 of the Religious Corporations Law, and such meeting was held in accordance therewith on the ..... day of ....., 189 , at .... o'clock, in the .... noon.

Second. That A. B. was the presiding officer of such meeting, and C. D. and E. F. were present and voted thereat.

Third. That at such meeting it was determined to incorporate such church as a religious corporation, in pursuance of sections 82 and 83 of the Religious Corporations Law.

Fourth. The name of the proposed corporation as decided upon by such meeting is (*state name*).

Fifth. The principal place of worship of such corporation is to be located in the county of ....., in the town (*city of village*) of (*state name*).

Sixth. The number of trustees decided upon at such meeting was (*three, six or nine*).

Seventh. The names of the trustees elected by such meeting to hold office until the first annual election are, respectively, as follows: (*Names of one-third of trustees.*)

Eighth. The names of the trustees elected by such meeting to hold office until the second annual election are, respectively, as follows: (*Names of one-third of trustees.*)

Ninth. The names of the trustees elected by such meeting to hold office until the third annual election are, respectively, as follows: (*Names of one-third of trustees.*)

Tenth. The date fixed by such meeting for holding the first annual election of the trustees of such corporation was (*state date, not more than fifteen months after such meeting*).

In witness whereof, we have made, signed, acknowledged and filed this certificate on the ..... day of ....., 189 .

(*Signatures of the presiding officer of the meeting and of two persons present and voting thereat.*)

STATE OF NEW YORK, }
COUNTY OF....., } *ss.:*

On this ..... day of ....., 189 , before me personally came (*names of subscribers*) personally known to me to be the persons described in and who made and signed the foregoing certificate and severally acknowledged to me that they made, signed and executed the same for the purposes therein set forth.

(*Signature of notary.*)

NOTE.—Certificate should be filed in the county clerk's office of the county in which the principal place of worship of the church is, or is to be, located. Fees, for filing, six cents; for recording, ten cents per folio.

No. 43

Notice of Time and Place of Corporate Meeting of Church.

(Religious Corporations Law, § 84.)

Notice is hereby given that at the annual meeting of (*corporate name*), to be held at....., on the.....day of....., 189 , at....o'clock in the .....noon (*as fixed by law or the by-laws*) successors will be elected to (*state names*) as trustees of such corporation whose terms of office will then expire.

No. 44

Incorporation of a Union Church.

(Religious Corporations Law, § 100.)

(*The form of certificate should be the same as for the separate incorporation of one of the churches, except that it should recite the agreement of union, adopted by the meeting, and the number of trustees of the incorporated union church to be selected by each unincorporated church. It should be filed in the county clerk's office of the county in which the principal place of worship is to be located. Fees for filing, six cents; for recording,* 10 *cents per folio.*)

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THE

TAX LAW OF 1896

OF THE

STATE OF NEW YORK.

Chapter XXIV of the General Laws of New York, Taking Effect June 15, 1896, Codifying, Revising and Repealing Parts of the Revised Statutes and One Hundred and Fifty-one Separate Statutes, with a Complete Index, and Amendments to date.

1903

PREPARED BY ANDREW HAMILTON.

BANKS & COMPANY,
ALBANY, N. Y.
1903.

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THE TAX LAW.

CHAPTER 908.

AN ACT in relation to taxation, constituting chapter twenty-four of the general laws.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

CHAPTER XXIV OF THE GENERAL LAWS.

The Tax Law.

Article 1. Taxable property and place of taxation. (§§ 1-4.)
2. Mode of assessment. (§§ 20-41.)
3. Equalization of assessment and levy of tax. (§§ 50-60.)
4. Collection of taxes. (§§ 70-94.)
5. Collection of nonresident taxes. (§§ 100-109.)
6. Sales by comptroller for unpaid taxes and redemption of lands. (§§ 120-143.)
7. Sales by county treasurers for unpaid taxes and redemption of lands. (§§ 150-158.)
8. State board of tax commissioners, state board of equalization. (§§ 170-177.)
9. Corporation tax. (§§ 180-203.)
10. Taxable transfers. (§§ 220-242.)
11. Procedure. (§§ 250-264.)
12. Laws repealed; when to take effect. (§§ 280-281.)

ARTICLE I.

Taxable Property and Place of Taxation.

Section 1. Short title.
2. Definitions.
3. Property liable to taxation.
4. Exemption from taxation.
5. Taxation of lands leased or sold by the state.
6. No deduction allowed for indebtedness fraudulently contracted.

Section 7. When property of nonresidents is taxable.
8. Place of taxation of property of residents.
9. Place of taxation of real property.
10. Taxation of real property divided by line of tax district.
11. Place of taxation of property of corporations.
12. Taxation of corporate stock.
13. Stockholders of bank taxable on shares.
14. Place of taxation of individual bank capital.

Section 1. Short title.— This chapter shall be known as the tax law.

§ 2. Definitions.— 1. "Tax district" as used in this chapter, means a political subdivision of the state having a board of assessors authorized to assess property therein for state and county taxes.

2. "County treasurer" includes any officer performing the duties devolving upon such officer under whatever name.

3. The terms "land," "real estate," and "real property," as used in this chapter, include the land itself above and under water, all buildings and other articles and structures, substructures and superstructures, erected upon, under or above, or affixed to the same; all wharves and piers, including the value of the right to collect wharfage, cranage or dockage thereon; all bridges, all telegraph lines, wires, poles and appurtenances; all supports and inclosures for electrical conductors and other appurtenances upon, above and under ground; all surface, under ground or elevated railroads, including the value of all franchises, rights or permission to construct, maintain or operate the same in, under, above, on or through, streets, highways, or public places; all railroad structures, substructures and superstructures, tracks and the iron thereon; branches, switches and other fixtures permitted or authorized to be made, laid or placed in, upon, above or under any public or private road, street or ground; all mains, pipes and tanks laid or placed in, upon, above or under any public or private street or place for conducting steam, heat, water, oil, electricity or any property, substance or product capable of transportation or conveyance therein or that is protected thereby, including the value of all franchises, rights, authority or permission to construct, maintain or operate, in, under, above, upon, or through, any streets, highways, or public places, any mains, pipes, tanks, conduits, or wires, with their appurtenances, for conducting water, steam, heat, light, power, gas, oil, or other substance, or electricity for telegraphic, telephonic or other purposes; all trees and underwood growing upon land, and all mines, minerals, quarries and fossils in and under the same, except mines belonging to the state. A franchise, right, authority or permission specified in this subdivision shall for the purpose of taxation be known as a "special franchise." A special franchise shall be deemed to include the value of the tangible property of a person, copartnership, association or corporation situated in, upon, under or above any street, highway, public place or public waters in connection with the special franchise. The tangible property so included shall be taxed as a part of the special franchise. No property of a municipal corporation shall be subject to a special franchise tax.

Am'd by ch. 712 of 1899. In effect Oct. 1, 1899.

4. The term special franchise shall not be deemed to include the crossing of a street, highway or public place where such crossing is not at the intersection of another street or highway, unless such crossing shall be at other than right angles for a distance of not less than two hundred and fifty feet, in which case the whole of such crossing shall be deemed a special franchise. This subdivision shall not apply to any elevated railroad.

Added by ch. 490 of 1901. In effect April 23, 1901.

5. The terms "personal estate," and "personal property." as used in this chapter, include chattels, money, things in action, debts due from solvent debtors, whether on account, contract, note, bond or mortgage, debts and obligations for the payment of money due or owing to persons residing within this state, however secured or wherever such securities shall be held; debts due by inhabitants of this state to persons not residing within the United States for the purchase of any real estate; public stock, stocks in monyed* corporations, and such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate.

Changed to subdivision 5 by ch. 490. In effect April 23, 1901.

§ 3. **Property liable to taxation.**—All real property within this state, and all personal property situated or owned within this state, is taxable unless exempt from taxation by law.

§ 4. **Exemption from taxation.**— The following property shall be exempt from taxation:

1. Property of the United States.

2. Property of this state other than its wild or forest lands in the forest preserve.

3. Property of a municipal corporation of the state held for a public use, except the portion of such property not within the corporation.

4. The lands in any Indian reservation owned by the Indian nation, tribe or band occupying them.

5. All property exempt by law from execution, other than an exempt homestead. But real property purchased with the proceeds of a pension granted by the United States for military or naval services, and owned and occupied by the pensioner, or by his wife or widow. is subject to taxation as herein provided. Such property shall be assessed in the same manner as other real property in the tax districts. At the meeting of the assessors to hear the complaints concerning assessments, a verified application for the exemption of such real property from taxation may be presented to them by or on behalf of the owner thereof, which application must show the facts on which the exemption is claimed, including the amount of pension money used in or toward the purchase of such property. If the assessors are satisfied that the applicant is entitled to the exemption, and that the

*So in the original.

amount of pension money used in the purchase of such property equals or exceeds the assessed valuation thereof, they shall enter the word "exempt" upon the assessment-roll opposite the description of such property. If the amount of such pension money used in the purchase of the property is less than the assessed valuation, they shall enter upon the assessment-roll the words "exempt to the extent of ..... dollars" (naming the amount) and thereupon such real property, to the extent of the exemption entered by the assessors, shall be exempt from state, county and general municipal taxation, but shall be taxable for local school purposes, and for the construction and maintenance of streets and highways. If no application for exemption be granted, the property shall be subject to taxation for all purposes. The entries above required shall be made and continued in each assessment of the property so long as it is exempt from taxation for any purpose. The provisions herein, relating to the assessment and exemption of property purchased with a pension apply and shall be enforced in each municipal corporation authorized to levy taxes.

[Am'd, ch. 347, 1897.]

6. Bonds of this state to be hereafter issued by the comptroller to carry out the provisions of chapter seventy-nine of the laws of eighteen hundred and ninety-five, and bonds of a municipal corporation heretofore issued for the purpose of paying up or retiring the bonded indebtedness of such corporation.

[Am'd, ch. 80, 1897. Took effect March 22, 1897.]

7. The real property of a corporation or association organized exclusively for the moral or mental improvement of men or women, or for religious, bible, tract, charitable, benevolent, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, historical or cemetery purposes, or for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes; and the personal property of any such corporation shall be exempt from taxation. But no such corporation or association shall be entitled to any such exemption if any

officer, member or employe thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof, for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association, or for any of its members or employes, or if it be not in good faith organized or conducted exclusively for one or more of such purposes. The real property of any such corporation or association entitled to such exemption held by it exclusively for one or more of such purposes and from which no rents, profits or income are derived, shall be so exempt, though not in actual use therefor by reason of the absence of suitable buildings or improvements thereon, if the construction of such buildings or improvements is in progress, or is in good faith contemplated by such corporation or association. The real property of any such corporation not so used exclusively for carrying out thereupon one or more of such purposes, but leased or otherwise used for other purposes, shall not be exempt, but if a portion only of any lot or building of any such corporation or association is used exclusively for carrying out thereupon one or more such purposes of any such corporation or association, then such lot or building shall be so exempt only to the extent of the value of the portion so used, and the remaining or other portion to the extent of the value of such remaining or other portion shall be subject to taxation; provided, however, that a lot or building owned, and actually used for hospital purposes, by a free public hospital, depending for maintenance and support upon voluntary charity shall not be taxed as to a portion thereof leased or otherwise used for the purposes of income, when such income is necessary for, and is actually applied to, the maintenance and support of such hospital, and further provided that the real property of any fraternal corporation, association or body created to build and maintain a building or buildings for its meeting or meetings of the general assembly of its members, or subordinate bodies of such fraternity and for the accommodation of other fraternal bodies or associations, the entire net income of which real property is exclusively applied or to be used to build, furnish and maintain an asylum or asylums, a home or homes, a school or schools for the free education or relief of the members of such fraternity or for the relief, support and care of worthy and indigent members of the fraternity, their wives, widows or orphans, shall be exempt from taxation. Property held by any officer of a religious denomination shall be entitled to the same exemptions, subject to the same conditions and exceptions, as property held by a religious corporation.

Am'd by ch. 204 of 1903. In effect April 24, 1903.

8. Real property of an incorporated association of present or former volunteer firemen actually and exclusively

used and occupied by such corporation and not exceeding in value fifteen thousand dollars.

9. All dwelling-houses and lots of religious corporations while actually used by the officiating clergymen thereof, but the total amount of such exemption to any one religious corporation shall not exceed two thousand dollars. Such exemption shall be in addition to that provided by subdivision seven of this section.

10. The real property of an agricultural society permanently used by it for exhibition grounds.

11. The real property of a minister of the gospel or priest who is regularly engaged in performing his duties as such, or permanently disabled, by impaired health from the performance of such duties, or over seventy-five years of age, and the personal property of such minister or priest, but the total amount of such exemption on account of both real and personal property shall not exceed fifteen hundred dollars.

12. All vessels registered at any port in this state and owned by an American citizen, or association, or by any corporation, incorporated under the laws of the state of New York, engaged in ocean commerce between any port in the United States and any foreign port, are exempted from all taxation in this state, for state and local purposes; and all such corporations, all of whose vessels are employed between foreign ports and ports in the United States, are exempted from all taxation in this state, for state and local purposes, upon their capital stock, franchises and earnings, until and including December thirty-first, nineteen hundred and twenty-two.

13. A bond, mortgage, note, contract, account or other demand, belonging to any person not a resident of this state, sent to or deposited in this state for collection; the products of another state, owned by a nonresident of this state and consigned to his agent in this state for sale on commission for the benefit of the owner; moneys of a nonresident of this state, under the control or in the possession of his agent in this state, when transmitted

14. The deposits in any bank for savings which are due depositors, the accumulations in any domestic life insurance corporation, held for the exclusive benefit of the insured, other than real estate and stocks, now liable for taxation; the accumulations of any incorporated co-operative loan association upon the shares of such

association held by any person; and personal property of any corporation, person, company or association transacting the business of fire, casualty or surety insurance in this state equal in value to the unearned premiums required by the laws of this state, or the regulations of its insurance department, to be charged as a liability.

Amended by ch. 618 of 1901. In effect April 29, 1901.

15. Moneys collected in the course of the business of any corporation, association or society doing a life or casualty insurance business or both, upon the co-operative or assessment plan, and which are to be used for the payment of assessments, or for death losses or for benefits to disabled members.

16. The owner or holder of stock in an incorporated company liable to taxation on its capital, shall not be taxed as an individual for such stock.

17. The personal property in excess of one hundred thousand dollars of a mutual life insurance corporation incorporated in this state before April tenth, eighteen hundred and forty-nine.

18. Property real, from which no income is derived, and personal property, situated within any city of the first class and belonging to the medical society of any county, which county is either wholly or partly within such city and which society was heretofore incorporated under the provisions of chapter ninety-four, laws of eighteen hundred and thirteen, entitled "An act to incorporate medical societies for the purpose of regulating the practice of physic and surgery in this state," provided that such property is used for the purposes of such a society and not otherwise, and provided that such exemption of property for any society in the counties of Kings or New York, shall not exceed one hundred and fifty thousand dollars, and in any other county affected hereby, shall not exceed fifty thousand dollars.

Added by ch. 199 of 1903. In effect April 24, 1903.

§ 5 Taxation of lands sold or leased by the state.— All lands which have been sold by the state, although not conveyed, shall be assessed in the same manner as if such purchaser were the actual owner. Where land is leased by the state such leasehold interest, except in cases where by the terms of the lease the state is to pay the taxes imposed upon the property leased, shall be assessed to the lessee or occupant in the tax district where the land is situated.

[Am'd, ch. 443, 1897.]

§ 6. No deduction allowed for indebtedness fraudulently contracted.— No deduction shall be allowed in the assessment of personal property by reason of the indebtedness of the owner contracted or incurred in the purchase of nontaxable property or securities owned by him or held for his benefit, nor for or on account of any indirect liability as surety, guarantor, indorser or otherwise, nor for or on account of any debt or liability contracted or incurred for the purpose of evading taxation.

§ 7. When property of nonresidents is taxable.— Nonresidents of the state doing business in the state, either as principals or partners, shall be taxed on the capital invested in such business, as personal property, at the place where such business is carried on, to the same extent as if they were residents of the state.

§ 8. Place of taxation of property of residents — Every person shall be taxed in the tax district where he resides when the

assessment for taxation is made, for all personal property owned by him, or under his control as agent, trustee, guardian, executor or administrator. Where taxable personal property is in the possession or under the control of two or more agents, trustees, guardians, executors or administrators residing in different tax districts, each shall be taxed for an equal portion of the value of such property so held by them. Rents reserved in any lease in fee or for one or more lives or for a term more than twenty-one years and chargeable upon real property within the state, shall be taxable to the person entitled to receive the same, as personal property in the tax district where such real property is situated, and for the purpose of the taxation thereof such person is to be deemed a resident of such tax district. When a person shall have acquired a residence in a tax district, and shall have been taxed therein, such residence shall be presumed to continue for the purpose of taxation until he shall have acquired another residence in this state or shall have removed from this state. The residence of a person on July first shall be deemed his residence for the purpose of assessment and taxation during that year. If he shall have actually and in good faith changed his residence after July first, and before August first in any year, from one tax district to another, and shall make proof to the assessors at or before their last meeting for the correction of the assessment-roll of such change of residence and that he is assessed in the tax district to which he has removed, his name and the assessment of his personal property shall be stricken from the assessment-roll of the tax district where he resided on July first. In case of any controversy as to the proper place of taxation within the state of any person, his residence for purposes of taxation may be determined by the state board of tax commissioners, subject to review by the court.

§ 9. Place of taxation of real property.—When real property is owned by a resident of a tax district in which it is situated, it shall be assessed to him. When real property is owned by a resident outside the tax district where it is situated, and is occupied, and the occupant is a resident of the tax district, it shall be assessed to either the owner or occupant.

If the occupant resides out of the tax district or if the land is unoccupied, it shall be assessed as nonresident, as hereinafter provided by article two. In all cases the assessment shall be deemed as against the real property itself, and the property itself shall be holden and liable to sale for any tax levied upon it.

Amended by ch. 171 of 1902. In effect March 15, 1902.

§ 10. **Taxation of real property divided by line of tax district.**—If a farm or lot is divided by a line between two or more tax districts it shall be assessed in the tax district in which the dwelling house or other principal buildings are located, in the manner provided by section nine of this chapter, the same as though such farm or lot was wholly in such tax district, except that if the land is unoccupied, or has not buildings thereupon the portion of such farm, lot or tract of land lying in each district shall be separately assessed therein. If such land is situated in two or more counties and is wild and uncultivated and not occupied and used for agricultural purposes, the portions of such land lying in each county shall be separately assessed therein. If the boundary line of a tax district passes through a building, any portion of which is used as a dwelling, the owner of such building, if occupying the same or residing in either tax district, and otherwise, the person occupying such building as a dwelling house, may elect in which district such building and the adjacent land, owned, occupied and connected therewith, shall be assessed, by serving a written notice of such election on the assessors of each tax district during the month of May; but if such election is not made, the property shall be assessed in the tax districts in which it is located.

[Am'd ch. 537 of 1898.]
Amended by chap. 200 of 1902. In effect Mar. 21, 1902.
Amended by ch. 305 of 1903. In effect May 5, 1903.

§ 11. **Place of taxation of property of corporations.**—The real estate of all incorporated companies liable to taxation, shall be assessed in the tax district in which the same shall lie, in the same manner as the real estate of individuals. All the personal estate of every incorporated company liable to taxation on its capital shall be assessed in the tax district where the principal office or place for transacting the financial concerns of the company shall be, or if such company have no principal office, or place for transacting its financial concerns, then in the tax district where the operations of such company shall be

carried on. In the case of toll bridges, the company owning such bridge shall be assessed in the tax district in which the tolls are collected; and where the tolls of any bridge, turnpike, or canal company are collected in several tax districts, the company shall be assessed in the tax district in which the treasurer or other officer authorized to pay the last preceding dividend resides.

§ 12. **Taxation of corporate stock.**— The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment-roll or shall be exempt by law, together with its surplus profits or reserve funds exceeding ten per centum of its capital, after deducting the assessed value of its real estate, and all shares of stock in other corporations actually owned by such company which are taxable upon their capital stock under the laws of this state, shall be assessed at its actual value.

§ 13. **Stockholders of bank taxable on shares.**— The stockholders of every bank or banking association organized under the authority of this state, or of the United States, shall be assessed and taxed on the value of their shares of stock therein; said shares shall be included in the valuation of the personal property of such stockholders in the assessment of taxes in the tax district where such bank or banking association is located, and not elsewhere, whether the said stockholders reside in said tax district or not.

§ 14. **Place of taxation of individual bank capital.**— Every individual banker shall be taxable upon the amount of capital invested in his banking business in the tax district where the place of such business is located and shall, for that purpose, be deemed a resident of such tax district.

ARTICLE II.

Mode of Assessment.

Section 20. Ascertaining facts for assessment.
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22. Assessment of state lands in forest preserve.
23. Banks to make report.
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26. Notice of assessment to bank or banking association.
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28. Penalty for omission to make statement.
29. Assessment of real property of nonresident.
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34. Debts owing to nonresidents of United States, how assessed.
35. Notice of completion of assessment-roll.
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39. Assessors to apportion valuation of railroad, telegraph, telephone, or pipe line companies between school districts.
40. Neglect or omission of duty by assessors.
41. Abandonment of lot divisions.
42. Assessment of special franchise.
43. Report of state board of tax commissioners.
44. Hearing on special franchise assessment.
45. Certiorari to review assessment.
46. Deduction from special franchise tax for local purposes.
47. Special franchise tax not to affect other tax.

§ 20. **Ascertaining facts for Assessment.**—The assessors in each tax district may, by mutual agreement, divide it into convenient assessment districts not exceeding the number of such assessors.

The assessors in each tax district shall annually between May first and July first, ascertain by diligent inquiry all the property and the names of all the persons taxable therein, except that in towns containing an incorporated village having a population of more than ten thousand inhabitants according to the last state census the assessors may have from April fifteenth until July first to ascertain the taxable property and names of persons taxable in such town, except that in towns containing an incorporated city having a population of more

than ten thousand inhabitants according to the last state census the assessors may have from March first to July first to ascertain the taxable property and names of persons taxable in such towns.

Am'd by ch. 512 of 1900. In effect April 19, 1900.
Am'd by ch. 324 of 1902. In effect April 2, 1902.

§ 21. **Preparation of assessment-roll.**—They shall prepare an assessment-roll containing six separate columns and shall, according to the best information in their power, set down:

1. In the first column the names of all the taxable persons in the tax district.
2. In the second column the quantity of real property taxable to each person with a statement thereof in such form as the commissioners of taxes shall prescribe.
3. In the third column the full value of such real property.
4. In the fourth column the full value of all the taxable personal property owned by each person respectively after deducting the just debts owing by him.
5. In the fifth column the value of taxable rents reserved and chargeable upon lands within the tax district, estimated at a principal sum, the interest of which at the legal rate per annum, shall produce a sum equal to such annual rents and if payable in any other thing except money the value of the rents in money to be ascertained by them and the value of each rent assessed separately, and if the name of the person entitled to receive the rent assessed cannot be ascertained by the assessors, it shall be assessed against the tenant in possession of the real property upon which the rents are chargeable.
6. In the sixth column the value of the special franchise as fixed by the state board of tax commissioners.

Amended, by ch. 712 of 1889. In effect October 1, 1899.

7. Such assessment roll shall contain two additional colums in one of which shall be inserted the amount of the tax levied against each person named therein, and in the other, the date of the payment of such tax.

Added by ch. 159 of 1901. In effect March 22, 1901.

§ 22. **Assessment of state lands in forest preserve.**—All wild or forest lands within the forest preserve shall be assessed and taxed at a like valuation and rate as similar lands of individuals within the counties where situated. On or before August first in every year the assessors of the town within which the lands so belonging to the state are situated shall file in the office of the comptroller and of the board of fisheries, game and forest, a copy of the assessment-roll of the town, which, in addition to the other matter now required by law, shall state and specify which and how much, if any, of the lands assessed are forest lands, and which and how much, if any, are lands belonging to the state; such statements and specifications to be verified by the oaths of a majority of the assessors. The comptroller shall thereupon and before the first day of September following, and after hearing the assessors and the board of fisheries, game and forest, if they or any of them so desire, correct or reduce any assessment of state lands which may be in his judgment an unfair proportion to the remaining assessment of land within the town, and shall

in other respects approve the assessment and communicate such approval to the assessors. No such assessment of state lands shall be valid for any purpose until the amount of assessment is approved by the comptroller, and such approval attached to and deposited with the assessment-roll of the town, and therewith delivered by the assessors of the town, to the supervisor thereof or other officer authorized to receive the same from the assessors. No tax for the erection of a schoolhouse or opening of a road shall be imposed on the state lands unless such erection or opening shall have first been approved in writing by the board of fisheries, game and forest.

§ 23. **Banks to make report.**— The chief fiscal officer of every bank or banking association, organized under the authority of this state or of the United States, shall, on or before the first day of July, in each year, furnish the assessors of the tax district in which its principal office is located a statement under oath of the condition of such bank or banking association on the first day of June next preceding, stating the amount of its authorized capital stock, the number of shares and the par value of the shares thereof, the amount of stock paid in, the amount of its surplus and of its undivided profits, if any, a complete list of the names and residences of its stockholders and the number of shares held by each. In case of neglect or refusal on the part of any bank or banking association to report as herein prescribed, or to make other or further reports as may be required such bank or banking association shall forfeit the sum of one hundred dollars for each failure, and the additional sum of ten dollars for each day such failure continues, and an action therefor shall be prosecuted by the county treasurer of the county in which such bank or banking association so neglecting or refusing to report is located, and in the city of New York by the receiver of taxes thereof. There shall, in addition to such report, be kept in the office of every such bank or banking association a full and correct list of the names and residences of all stockholders therein, and of the number of shares held by each, and such lists shall be subject to the inspection of the assessors at all times. The list of stockholders furnished by such bank or banking association shall be deemed to contain the names of the owners of such shares as are set opposite them, respectively, for the purpose of assessment and taxation.

Amended by ch. 550 of 1901. In effect Apr. 25, 1901.

§ 24. **Bank shares, how assessed.**—In assessing the shares of stock of banks or banking associations organized under the authority of this state or the United States, the assessment and taxation shall not be at a greater rate than is made or assessed upon other monied capital in the hands of individual citizens of this state. The value of each share of stock of each bank and banking association, except such as are in liquidation, shall be ascertained and fixed by adding together the amount of the capital stock, surplus, and undivided profits of such bank or banking association and by dividing the result by the number of outstanding shares of such bank or banking association. The value of each share of stock in each bank or banking association in liquidation shall be ascertained and fixed by dividing the actual assets of such bank or banking association by the number of outstanding shares of such bank or banking association. The rate of tax upon the shares of stocks of banks and banking associations shall be one per centum upon the value thereof, as ascertained and fixed in the manner hereinbefore provided, and the owners of the stock of banks and banking associations shall be entitled to no deduction from the taxable value of their shares because of the personal indebtedness of such owners, or for any other reason whatsoever. Complaints in relation to the assessments of the shares of stock of banks and banking associations made under the provisions of this act shall be heard and determined as provided in article two, section thirty-six, of the tax law. The said tax shall be in lieu of all other taxes whatsoever for state, county or local purposes upon the said shares of stock, and the mortgages, judgments and other choses in action and personal property held or owned by banks and banking associations, the value of which enters into the value of said shares of stock, shall also be exempt from all other state, county or local taxation. The tax herein imposed shall be levied in the following manner: The board of supervisors of the several counties shall, on or before the fifteenth day of December in each year, ascertain from an inspection of the assessment rolls in their respective counties, the number of shares of stock of banks and banking associations in each town, city, village, school and other tax district, in their several counties, respectively, in which such shares of stock are taxable, the names of the banks issuing the same, respectively, and the assessed value of such shares, as ascertained in the manner provided in this act and entered upon the said assessment rolls, and shall forthwith mail to the president or cashier of each of said banks or banking associations a statement setting forth the amount of its capital stock, surplus and undivided profits, the number of outstanding shares thereof, the value of each share of stock taxable in said county, as ascertained in the manner herein provided, and the aggregate amount of tax to be collected and paid by such bank and banking association, under the provisions of this act. A cer-

tified copy of each of said statements shall be sent to the county treasurer. It shall be the duty of every bank or banking association to collect the tax due upon its shares of stock from the several owners of such shares, and to pay the same to the treasurer of the county wherein said bank or banking association is located, and in the city of New York to the receiver of taxes thereof, on or before the thirty-first day of December in said year; and any bank or banking association failing to pay the said tax as herein provided shall be liable by way of penalty for the gross amount of the taxes due from all owners of the shares of stock, and for an additional amount of one hundred dollars for every day of delay in the payment of said tax. Every bank or banking association so paying the taxes due upon the shares of its stock shall have a lien on the shares of stock and on all property of the several share owners in its hands, or which may at any time come into its hands, for reimbursement of the taxes so paid on account of the several share holders, with legal interest; and such lien may be enforced in any appropriate manner. The tax hereby imposed shall be distributed in the following manner: The board of supervisors of the several counties shall ascertain the tax rate of each of the several town, city, village, school and other tax districts in their counties, respectively, in which the shares of stock of banks and banking associations shall be taxable, which tax rates shall include the proportion of state and county taxes levied in such districts, respectively, for the year for which the tax is imposed, and the proportion of the tax on bank stock to which each of said districts shall be respectively entitled shall be ascertained by taking such proportion of the tax upon the shares of stock of banks and banking associations, taxable in such districts, respectively, under the provisions of this act as the tax rate of such tax district shall bear to the aggregate tax rates of all the tax districts in which said shares of stock shall be taxable. The clerk of the several cities, villages, and school districts to which any portion of the tax on shares of stock of banks and banking associations to be distributed under this act shall, in writing and under oath, annually report to the board of supervisors of their respective counties, during the first week of the annual session of such board, the tax rate of such city, village and school district for the year prior to the meeting of each such board. The said board of supervisors shall issue their warrant or order to the county treasurer on or before the fifteenth day of December in each year, setting forth the number of shares of bank stock taxable in each town, city, village, school and other tax district in said county, in which said shares of stock shall be taxable, the tax rate of each of said tax districts for said year, the proportion of the tax imposed by this act to which each of said tax districts is entitled, under the provisions hereof, and commanding him to collect the same, and to pay to the proper officer in each of such districts the proportion of such tax to which it is entitled under the provisions of this act. The said

county treasurer shall have the same powers to enforce the collection and payment of said tax as are possessed by the officers now charged by law with the collection of taxes, and the said county treasurer shall be entitled to a commission of one per centum for collecting and paying out said monies, which commission shall be deducted from the gross amount of said tax before the same is distributed. In issuing their warrants to the collectors of taxes, the boards of supervisors shall omit therefrom assessments of and taxes upon the shares of stock of banks and banking associations. All assessments of the shares of stock of banks and banking associations made on or after January first, nineteen hundred and one, and prior to the passage of this act, shall be null and void, and new assessments thereof shall be made agreeably to the provisions of this act. Provided, that in the city of New York the statement of bank assessment and tax herein provided for shall be made by the board of tax commissioners of said city, on or before the fifteenth day of December in each year, and by them forthwith mailed to the respective banks and banking associations located in said city, and a certified copy thereof sent to the receiver of taxes of said city. The tax shall be paid by the respective banks in said city to the said receiver of taxes on or before the thirty-first day of December in said year, and said tax shall be collected by the said receiver of taxes and shall be by him paid into the treasury of said city to the credit of the general fund thereof. This act is not to be construed as an exemption of the real estate of banks or banking associations from taxation.

Am'd by ch. 550 of 1901. In effect April 25, 1901.
Am'd by ch. 126 of 1902. In effect March 13, 1902.
Am'd by ch. 267 of 1903. In effect April 24, 1903.

§ 25. **Individual banker, how assessed.**— Every individual banker doing business under the laws of this state, must report before the fifteenth day of June under oath to the assessors of the tax district in which any of the capital invested in such banking business is taxable, the amount of capital invested in such banking business in such tax district on the first day of June preceding. Such capital shall be assessed as personal property to the banker in whose name such business is carried on.

§ 26. **Notice of assessment to bank or banking association.**— The assessors of every tax district shall within ten days after they have completed the assessment of the stock of a bank or banking association, give written notice to such bank or banking association of such assessment of the shares of its respective

shareholders and no personal or other notice to such shareholders of such assessment is required.

§ 27. Reports of corporations.— The president or other proper officer of every moneyed or stock corporation deriving an income or profit from its capital or otherwise shall, on or before June fifteenth, deliver to one of the assessors of the tax district in which the company is liable to be taxed and, if such tax district is in a county embracing a portion of the forest preserve, to the comptroller of the state, a written statement specifying:

1. The real property, if any, owned by such company, the tax district in which the same is situated and, unless a railroad corporation, the sums actually paid therefor.

2. The capital stock actually paid in and secured to be paid in excepting therefrom the sums paid for real property and the amount of such capital stock held by the state and by any incorporated literary or charitable institution, and

3. The tax district in which the principal office of the company is situated or in case it has no principal office, the tax district in which its operations are carried on.

Such statement shall be verified by the officer making the same to the effect that it is in all respects just and true. If such statement is not made within twenty days after the fifteenth day of June, or is insufficient, evasive or defective, the assessors may compel the corporation to make a proper statement by mandamus.

§ 28. Penalty for omission to make statement.— In case of neglect to furnish such statements within thirty days after the time above provided, the company so neglecting shall forfeit to the people of this state for each statement so omitted to be furnished, the sum of two hundred and fifty dollars, and it shall be the duty of the attorney-general to prosecute for such penalty upon information which shall be furnished him by the comptroller. Upon such statement being furnished and the costs of the suit being paid, the comptroller, if he shall be satisfied that such omission was not willful, may, in his discretion, discontinue such suit.

§ 29. Assessment of real property of nonresident.— The real

property of nonresidents of the tax districts shall be designated in a separate part of the assessment-roll and if it be a tract subdivided into lots or parts of a tract so subdivided, the assessors shall:

1. Designate it by its name, if known by one, or if not distinguished by a name or the name is unknown, state by what lands it is bounded.

2. Place in the first column the numbers of all unoccupied lots of any subdivided tract, without the names of the owner, beginning at the lowest number and proceeding in numerical order to the highest, but the entry of the name of the owner shall not affect the validity of the assessment.

3. In the second column and opposite the number of each lot, the quantity of land therein.

4. In the third column and opposite the quantity, the full value thereof.

5. If it be a part of a lot, the part must be distinguished by boundaries or in some other way by which it may be identified. If any such real property be a tract not subdivided or whose subdivisions can not be ascertained by the assessors, they shall certify in the roll that such tract is not subdivided, or that they can not obtain correct information of the subdivisions and shall set down in the proper column the quantity and valuation as herein directed. If the quantity to be assessed is a part only of a tract, that part, or the part not liable must be particularly described.

§ 30. **Surveys and maps of nonresident real property.**— If the assessors shall deem it necessary to have an actual survey made, to ascertain the quantity of any lot or tract of nonresident real property divided by a town line, they shall notify the supervisor, who shall cause the necessary surveys to be made at the expense of the town. If a part only of a tract of real property is liable to taxation as nonresident and the assessors can not otherwise designate such part, they shall notify the supervisor of the town, who shall cause a survey and two manuscript maps to be made for the purpose of ascertaining the situation and quantity of such part. One of such maps shall be delivered to the county treas-

urer and by him to be transmitted to the comptroller in case the county in which the land is situated embraces a part of the forest preserve; and in other counties it shall be retained by him. The other map shall be delivered to the assessors, who shall then complete the assessment of the tract and deposit the map in the town clerk's office for the information of future assessors. The expense of making such survey shall be immediately repaid to the supervisor out of the county treasury and added by the board of supervisors to the tax on such tract, distinguishing it from the ordinary tax.

§ 31. **Corporations, how assessed.**— The assessors shall assess corporations liable to taxation in their respective tax districts upon their assessment-rolls in the following manner:

1. In the first column the name of each corporation, and under its name the amount of its capital stock paid in and secured to be paid in; the amount paid by it for real property then owned by it wherever situated; the amount of all surplus profits or reserve funds exceeding ten per centum of their capital, after deducting therefrom the amount of said real property and the amount of its stock, if any, belonging to the state and to incorporated literary and charitable institutions.

2. In the second column the quantity of real property except special franchises owned by such corporation and situated within their tax district.

3. In the third column the actual value of such real property, except special franchises.

4. In the fourth column the amount of the capital stock paid in and secured to be paid in, and of all of such surplus profits or reserve funds as aforesaid, after deducting the sums paid out for all the real estate of the company, wherever the same may be situated, and then belonging to it, and the amount of stock, if any, belonging to the people of the state and to incorporated literary and charitable institutions.

5. In the fifth column the value of any special franchise owned by it as fixed by the state board of tax commissioners.

Am'd by ch. 712 of 1899. In effect, Oct. 1, 1899.

§ 32. **Assessment of agent, trustee, guardian or executor.**—If a person holds taxable property as agent, trustee, guardian, executor or administrator, he shall be assessed therefor as such, with the addition to his name of his representative character, and such assessment shall be carried out in a separate line from his individual assessment.

§ 33. Assessment of omitted property.— The assessors of any tax district shall, upon their own motion, or upon the application of any taxpayer therein, enter in the assessment-roll of the current year any property shown to have been omitted from the assessment-roll of the preceding year, at the valuation of that year, or if not then valued, at such valuation as the assessors shall determine for the preceding year, and such valuation shall be stated in a separate line from the valuation of the current year.

§ 34. Debts owing to nonresidents of the United States, how assessed.— Every agent in any county of a nonresident creditor having debts owing to him, taxable in any county of the state, shall annually, on or before June first, furnish to the county treasurer of the county where the debtor resides, a true and accurate statement verified by his oath, of such debts owing on the first day of May next preceding in each town or ward in such county. The county treasurer shall, immediately upon the receipt of such statement, make out and transmit to the assessors of every tax district in the county in which any such debtor resides, a copy of so much of such statement as relates to the tax district of such assessors, with the name of the creditor. The assessors on receipt of such statement from the county treasurer shall, within the time in which they are required to complete the assessment-roll, enter therein the name of such nonresident creditor, and the aggregate amount due him in such tax district on the first day of May next preceding, in the same manner as other personal property is entered on the roll, adding the name of the debtor owing such debt. Any agent neglecting or refusing without good cause to furnish such statement to the county treasurer shall forfeit to the county in which the debtor resides the sum of five hundred dollars, recoverable by the district attorney, if the existence of such debts was known to the agent.

§ 35. Notice of completion of assessment-roll.— The assessors shall complete the assessment-roll on or before the first day of August, and make out one copy thereof, to be left with one of their number, and forthwith cause a notice to be conspicuously posted in three or more public places in the tax district, stating

that they have completed the assessment-roll, and that a copy thereof has been left with one of their number at a specified place, where it may be seen and examined by any person until the third Tuesday of August next following, and that on that day they will meet at a time and place specified in the notice to review their assessments. In any city the notice shall conform to the requirements of the law regulating the time, place and manner of revising assessments in such city. During the time specified in the notice the assessor with whom the roll is left shall submit it to the inspection of every person applying for that purpose.

§ 36. **Hearing of complaints.**— The assessors shall meet at the time and place specified in such notice, and hear and determine all complaints in relation to such assessments brought before them, and for that purpose they may adjourn from time to time. Such complainants shall file with the assessors a statement, under oath, specifying the respect in which the assessment complained of is incorrect, which verification must be made by the person assessed or whose property is assessed, or by some person authorized to make such statement, and who has knowledge of the facts stated therein. The assessors may administer oaths, take testimony and hear proofs in regard to any such complaint and the assessment to which it relates. If not satisfied that such assessment is erroneous, they may require the person assessed, or his agent or representative, or any other person, to appear before them and be examined concerning such complaint, and to produce any papers relating to such assessment with respect to his property or his residence for the purpose of taxation. If any such person, or his agent or representative, shall willfully neglect or refuse to attend and be so examined, or to answer any material question put to him, such person shall not be entitled to any reduction of his assessments. Minutes of the examination of every person examined by the assessors upon the hearing of any such complaint shall be taken and filed in the office of the town or city clerk. The assessors shall, after said examination, fix the value of the property of the complainant and for that purpose may increase or diminish the assessment thereof.

§ 37. Correction and verification of tax-roll.—When the assessors, or a majority of them, shall have completed their roll, they shall severally appear before any officer of their county, authorized by law to administer oaths, and shall severally make and subscribe before such officer an oath in the following form: "We, the undersigned, do severally depose and swear that we have set down in the foregoing assessment-roll all the real estate situated in the tax district in which we are assessors, according to our best information; and that, with the exception of those cases in which the value of the said real estate has been changed by reason of proof produced before us, and with the exception of those cases in which the value of any special franchise has been fixed by the state board of tax commissioners, we have estimated the value of the said real estate at the sums which a majority of the assessors have decided to be the full value thereof; and, also, that the said assessment-roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in such roll over and above the amount of debts due from such persons, respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full value thereof, according to our best judgment and belief," which oath shall be written or printed on said roll, signed by the assessors and certified by the officer.

Am'd by ch. 712 of 1899. In effect Oct. 1, 1899.

§ 38 **Filing of roll and notice thereof.**—In cities the assesment roll when thus completed and verified shall be filed on or before September first, in the office of the city clerk, there to remain for fifteen days for public inspection. The assessors shall forthwith cause a notice to be posted conspicuously in at least three public places in the tax district and to be published in one or more newspapers, if any, published in the city, that such assessment roll has been finally completed and stating that it has been so filed and will be open to public inspection. At the expiration of such fifteen days, the city clerk shall deliver such roll to a supervisor of the tax district embraced therein. In towns, when the assessment roll shall have been thus completed and verified, the assessors shall make two copies thereof, one of which shall be retained by them for the use of themselves and their successors in office, and the other of which, duly certified by the said assessors to be a copy of said assessment roll, shall, on or before the fifteenth day of September, be filed in the office of the town clerk, and which shall thereupon become a public record. The assessors shall forthwith cause a notice to be posted conspicuously in at least three public places in the tax district and to be published in one or more newspapers, if any published in the town, that such assement roll has been finally completed and stating that such certified copy has been so filed. The said original assessment roll shall on or before the first day of October be delivered to a supervisor of the tax district embraced therein.

Amended by ch. 358 of 1901. In effect April 17, 1901.

§ 39. Assessors to apportion valuation of railroad, telegraph, telephone, or pipe line companies between school districts.—The assessors of each town in which a railroad, telegraph, tele-

phone or pipe line company is assessed upon property lying in more than one school district therein, shall, within fifteen days after the final completion of the roll, apportion the assessed valuation of the property of each of such corporation among such school districts. Such apportionment shall be signed by the assessors or a majority of them, and be filed with the town clerk within five days thereafter, and thereupon the valuation so fixed shall become the valuation of such property in such school district for the purpose of taxation. In case of failure of the assessors to act, the supervisor of the town shall make such apportionment on request of either the trustees of any school district or of the corporation assessed. The town clerk shall furnish the trustees a certified statement of the valuations apportioned to their respective districts. In case of any alteration in any school district affecting the valuation of such property, the officer making the same shall fix and determine the valuations in the districts affected for the current year.

§ 40. Neglect or omission of duty by assessors. — The assessors in the execution of their duties, shall use the forms and follow the instructions transmitted to them, from time to time, by the commissioners of taxes. If any assessor shall neglect or omit to perform any duty, the other assessors shall perform such duty and shall certify upon the assessment-roll the name of the delinquent assessor, stating therein the cause of such omission, and the assessment-roll, when otherwise made and completed in accordance with the requirements of this article, shall be deemed to be the assessment-roll of all the assessors. If the assessors shall neglect to meet for the purpose of hearing grievances any person aggrieved by the assessment may appeal to the board of supervisors at its next meeting, which shall have the same power to review and correct such assessment as the assessors have under this article. If any assessor shall refuse or neglect to perform any duty or do any act required of him by this article, he shall forfeit to the county the sum of fifty dollars, to be recovered by the district attorney.

§ 41. Abandonment of lot divisions.— Whenever more than ten years shall have elapsed after the subdivision of any tract of

land into lots, plots or sites, with or without proposed streets, the owner of such tract, or of any part thereof composed of two or more contiguous lots may, by an instrument in writing, duly executed and acknowledged and describing such land, disclaim and abandon such subdivision including any streets not opened, accepted or used by the public and which are not necessary for the use of an owner or occupant of any part of said tract; and thereupon such subdivision, as to the lands described in such instrument, shall be deemed abandoned and of no effect; and thereafter the lands described therein shall, for the purpose of taxation, be regarded as a single tract. If a map of such subdivision has been filed in the office of the county clerk or register of deeds, such instrument may be recorded in said office, and a notice of such record shall thereupon be indorsed by the clerk or register upon such map. This section shall not apply to a county embracing a portion of the forest preserve.

§ 42. **Assessment of special franchises.**—The state board of tax commissioners shall annually fix and determine the valuation of each special franchise subject to assessment in each city, town, or tax district. After the time fixed for hearing complaints the tax commissioners shall finally determine the valuation of the special franchises, and shall file with the clerk of the city or town in which said special franchise is assessed a written statement duly certified by the secretary of the board of the valuation of each special franchise assessed therein as finally fixed and determined by said board; such statement of valuation shall be filed with the town clerk of the respective towns within thirty days next preceding the first day of July in each year; and with the clerks of cities of the state within thirty days before the date set opposite the name of each city in the following schedule. In the city of New York such statement shall be filed with the department of taxes and assessments.

SCHEDULE OF DATES FOR FILING OF ASSESSMENTS OF SPECIAL FRANCHISES.

Name of city.	Date.	Name of city.	Date.
Rochester.	April 1st.	Jamestown.	April 1st.
Ithaca.	April 1st.	Buffalo.	April 1st.
Gloversville.	April 1st.	Auburn.	May 1st.
New York City.	April 1st.	Schenectady.	June 1st.
Corning.	June 1st.	Hornellsville.	June 1st.
Oswego.	June 1st.	North Tonawanda.	July 1st.
Olean.	July 1st.	Syracuse.	July 1st.
Cohoes.	July 1st.	Ogdensburgh.	July 1st.
Dunkirk.	July 1st.	Troy.	July 1st.
Rome.	July 1st.	Watertown.	July 1st.
Elmira.	July 1st.	Lockport.	July 1st.
Utica.	July 1st.	Poughkeepsie.	July 1st.
Little Falls.	July 1st.	Watervliet.	July 1st.
Niagara Falls.	July 1st.	Kingston.	July 1st.
Newburgh.	July 1st.	Hudson.	July 1st.
Amsterdam.	July 1st.	Binghamton.	July 1st.
Geneva.	July 1st.	Middletown.	July 1st.
Johnstown.	July 1st.	Yonkers.	Oct. 1st.
New Rochelle.	Oct. 1st.	Albany.	Oct. 1st.
Mt. Vernon.	Oct. 1st.	Rensselaer.	July 1st.
Oneida.	Oct. 1st.	Cortland.	Oct. 1st.

Each city or town clerk shall, within five days after the receipt by him of the statement of assessment of a special franchise by the state board, deliver a copy of such statement certified by him to the assessors or other officers charged with the duty of making local assessments in each tax district in said city or town and to the assessors of villages and commissioners of highways within their respective towns and villages. The valuations of every special franchise as so fixed by the state board shall be entered by the assessors or other officers in the proper column of the assessment roll before the final

revision and certification of such roll by them, and become part thereof with the same force and effect as if such assessment had been originally made by such assessor or other officer. If a special franchise assessed in a town is wholly within a village, the valuation fixed by the state board for the town shall also be the valuation for the village. If a part only of such special franchise is in a village, or is in a village situated in more than one tax district, it shall be the duty of the village assessors to ascertain and determine what portion of the valuation of such franchise, as the same has been fixed by the state board, shall be placed upon the tax roll for village purposes. The valuation apportioned to the town shall be the assessed valuation for highway purposes, and in case part of such special franchise shall be assessed in a village and part thereof in a town outside a village, the commissioners of highways of the town and village shall meet on the third Tuesday in August in each year and apportion the valuation of such special franchises between such town outside the village and such village for highway purposes. In case of disagreement between them the decision of the supervisor of the town shall be final. The town assessors shall make an apportionment among school districts at the time and in the manner required by section thirty-nine of this chapter. The valuation so fixed by the state board shall be the assessed valuation on which all taxes based on such special franchise in the city, town or village for state, municipal, school or highway purposes shall be levied during the next ensuing year. It shall not be necessary for the state board of tax commissioners to give notice to any person, copartnership, association or corporation of the valuation of a special franchise located in any village for village purposes except in a case where such valuation is required

to be made for such village purposes by the state board of tax commissioners. The assessors or other taxing officer, or other local officer in any city, town or village, or any state or county officer, shall on demand furnish to the state board of tax commissioners any information required by such board for the purpose of determining the value of a special franchise.

Amended by chap. 251 of 1900. In effect March 29, 1900.
Amended by chap. 112 of 1902. In effect March 12, 1902.

§ 43. **Report to state board of tax commissioners.**—Every person, co-partnership, association or corporation subject to taxation on a special franchise, shall, within thirty days after this section takes effect, or within thirty days after such special franchise is acquired, make a written report to the state board of tax commissioners containing a full description of every special franchise possessed or enjoyed by such person, co-partnership, association or corporation, a copy of the special law, grant, ordinance, or contract under which the same is held, or if possessed or enjoyed under a general law, a reference to such law, a statement of any condition, obligation or burden imposed upon such special franchise, or under which the same is enjoyed, together with any other information relating to the value of such special franchise, required by the state board. The state board of tax commissioners may from time to time require a further or supplemental report from any such person, co-partnership, association or corporation, containing information and data upon such matters as it may specify. Every report required by this section shall have annexed thereto the affidavit of the president, vice-president, secretary or treasurer of the association or corporation, or one of the persons or one of the members of the co-partnership making the same, to the effect that the statements contained therein are true. Such board may prepare blanks to be used in making the reports required by this section. Every person, co-partnership, association or corporation failing to make the report required by this section, or failing to make any special report required by the state board of tax commissioners within a reasonable time specified by it, shall forfeit to the people of the state the sum of one hundred dollars for every such failure and the additional sum of ten dollars for each day that such failure continues, and shall not be entitled to review the assessment by certiorari, as provided by section forty-five of this chapter.

§ 44. **Hearing on special franchise assessment.**—On making an assessment of a special franchise, the state board of tax commissioners

shall immediately give notice in writing to the person, co-partnership association or corporation affected, stating in substance that such assessment has been made, the total valuation of such special franchise, and the valuation thereof in each city, town, village or tax district; and that the board will meet at its office in the city of Albany on a day specified in such notice, which must not be less than twenty nor more than thirty days from the date of the notice, to hear and determine any complaint concerning such assessment. Such notice must be served at least ten days before the day fixed for the hearing; and it may be served on a co-partnership, association or corporation, by mailing a copy thereof to it at its principal office or place of business and on a person, either personally or by mailing it to him at his place of business or last known place of residence. Section thirty-six of this chapter applies so far as practicable to a hearing by the state board of tax commissioners under this section.

Am'd by ch. 712 of 1899. In effect Oct. 1, 1899.

§ 45. **Certiorari to review assessment.**—An assessment of a special franchise by the state board of tax commissioners may be reviewed in the manner prescribed by article eleven of this chapter, and that article applies so far as practicable to such an assessment, in the same manner and with the same force and effect as if the assessment had been made by local assessors; a petition for a writ of certiorari to review the assessment must be presented within fifteen days after the completion and filing of the assessment roll, and the first posting or publication of the notice thereof as required by law. Such writ must run to and be answered by said state board of tax commissioners and no writ of certiorari to renew any assessment of a special franchise shall run to any other board or officer unless otherwise directed by the court or judge granting the writ. An adjudication made in the proceeding instituted by such writ of certiorari shall be binding upon the local assessors and any ministerial officer who performs any duty in the collection of said assessment in the same manner as though said local assessors or officers had been parties to the proceeding. The state board of tax commissioners on filing with the city, town or village clerk a statement of the valuation of a special franchise, shall give to the person, copartnership, association or corporation affected written notice that such statement has been filed, and such notice may be served on a copartnership, association or corporation by mailing a copy

thereof to it at its principal office or place of business, and on a person either personally or by mailing it to him at his place of business or last known place of residence.

Am'd by Chap. 254 of 1900. In effect March 29, 1900.

§ 46. **Deduction from special franchise tax for local purposes.**—If, when the tax assessed on any special franchise is due and payable under the provisions of law applicable to the city, town or village in which the tangible property is located, it shall appear that the person, co-partnership, association or corporation affected has paid to such city, town or village for its exclusive use within the next preceding year, under any agreement therefor, or under any statute requiring the same, any sum based upon a percentage of gross earnings, or any other income, or any license fee, or any sum of money on account of such special franchise, granted to or possessed by such person, co-partnership, association, or corporation, which payment was in the nature of a tax, all amounts so paid for the exclusive use of such city, town or village except money paid or expended for paving or repairing of pavement of any street, highway or public place, shall be deducted from any tax based on the assessment made by the state board of tax commissioners for city, town or village purposes, but not otherwise; and the remainder shall be the tax on such special franchise payable for city, town or village purposes. The chamberlain or treasurer of a city, the treasurer of a village, the supervisor of a town, or other officer to whom any sum is paid for which a person, co-partnership, association, or corporation is entitled to credit as provided in this section, shall, not less than five nor more than twenty days before a tax on a special franchise is payable, make and deliver to the collector or receiver of taxes or other officer authorized to receive taxes for such city, town or village, his certificate showing the several amounts which have been paid during the year ending on the day of the date of the certificate. On the receipt of such certificate the collector, receiver or other officer shall immediately credit on the tax roll to the person, co-partnership, association or corporation affected the amount stated in such certificate, on any tax levied against such person, co-partnership, association or corporation on an assessment of a special franchise for city, town or village purposes only, but no credit shall be given on account of such payment or certificate in any other year, nor for a greater sum than the amount of the special franchise tax for city,

town or village purposes, for the current year; and he shall collect and receive the balance, if any, of such tax as required by law.

Am'd by ch. 712 of 1899. In effect Oct. 1, 1899.

§ 47. **Special frachise tax not to affect other tax.**—The imposition or payment of a special franchise tax as provided in this chapter shall not relieve any association, co-partnership or corporation from the payment of any organization tax or franchise tax or any other tax otherwise imposed by article nine of this chapter, or by any other provisio of law; but tangible property subject to a special franchise tax situated in, upon, under or above any street, highway, public place or public waters, as described in subdivision three of section two shall not be taxable except upon the assessment made as herein provided by the state board of tax commissioners.

Am'd by ch. 712 of 1899. In effect, Oct. 1, 1899.

ARTICLE III.

Equalization of Assessment and Levy of Tax.

Section 50. Equalization by board of supervisors.
51. Description of real property of nonresidents.
52. Review of assessments against nonresident owners of rents reserved.
53. Correction of errors by board of supervisors.
54. Reassessment of property illegally assessed.
55. Levy of tax by supervisors.
56. Tax-roll and collector's warrant.
57. Statement of taxes upon certain corporations by clerk of supervisors.
58. Statement of valuation to be furnished to comptroller.
59. Abstract of warrant to be furnished county treasurer.
60. Certain errors in roll to be corrected.

§ 50. **Equalization by board of supervisors.**— The board of supervisors of each county in this state, at its annual meeting, shall examine the assessment-rolls of the several tax districts in the county, for the purpose of ascertaining whether the valuations in one tax district bear a just relation to the valuations in

all the tax districts in the county; and the board may increase or diminish the aggregate valuations of real estate in any tax district, by adding or deducting such sum upon the hundred, as may, in its opinion, be necessary to produce a just relation between all the valuations of real estate in the county; but it shall, in no instance, change the aggregate valuations of all the tax districts from the aggregate valuation thereof as made by the assessors.

§ 51. Description of real property of nonresidents.— The board of supervisors of each county, at its annual meeting, shall examine the assessment-rolls of the several tax districts, and shall make such changes in the descriptions of the real property of nonresidents as may be necessary to render such descriptions sufficiently definite for the purposes of collection of taxes by sale thereof. If a sufficiently definite description can not be obtained during the session, the board shall cause the same to be obtained for the next annual session, and the property shall not be taxed until such description is obtained, and shall then be taxed for the year so omitted, in the manner provided for taxing omitted lands.

§ 52. Review of assessment against nonresident owners of rents reserved.— If an assessment of taxable rents shall have been made against any person in any tax district of which he is not an actual resident, the board of supervisors of the county shall have the same power and authority in all respects, and it shall be its duty to correct such assessments as to the valuation of such rents and as to the gross amount for which such persons shall be assessed therefor, as the assessors of a tax district have as to the assessment of personal property of an actual resident of such tax district. The board may reduce the amount of any such assessment, if necessary, to make such assessment just when compared with the other assessments of property upon such roll.

§ 53. Correction of errors by board of supervisors.— If it shall be made to appear to the board of supervisors of any county, upon the verified petition of the assessors of any tax district;

First. That any property taxable therein has, by any mistake in transcribing or copying the assessment-roll of the preceding

year, been placed on the assessment-roll delivered to the supervisor, at a valuation less than actually appearing upon the original roll signed by the assessors, such board shall insert in the assessment-roll of the current year an assessment of the property upon the valuation equal to the difference between the actual valuation made by the assessors and the amount at which, by such mistake, the property was placed upon the roll of the preceding year, and tax the same at the rate per centum imposed upon property in such tax district in the year in which the mistake occurred.

Second. That any taxable property therein has been omitted from the assessment-roll of the preceding year, such board shall place the same on the roll of the current year at its valuation for the preceding year, to be fixed by the assessors in their petition, and shall tax the same at the rate per centum of the preceding year.

Third. That taxable property has been omitted from the assessment-roll, for the current year, such board shall place the same thereon at a valuation to be fixed by the assessors in their petition, and shall tax the same at the rate per centum of the current year.

A copy of the petition under the second or third subdivision of this section, with a notice of the presentation thereof to the board of supervisors, shall be served personally on the person alleged to be liable to taxation for the land omitted from the assessment-roll, at least ten days before the meeting of the board of supervisors; and the board of supervisors shall take no action on such petition, unless proof of the personal service of such petition and notice be made to them by affidavit. The board of supervisors shall give to the person alleged to be liable to taxation for such omitted land, an opportunity to be heard, and on such hearing and review the board of supervisors shall have, as to such omitted property all the powers of the assessors of a tax district in reviewing and correcting the assessment-roll. The whole amount of tax levied upon land or property omitted in the tax levy of the preceding year shall be deducted from the

aggregate of taxation to be levied on the tax district for the current year before such tax is levied.

§ 54. **Reassessment of property illegally assessed.**— Whenever by the final judgment of a court of competent jurisdiction, it appears to the board of supervisors that any property liable to taxation in any year was erroneously or illegally assessed, and that by reason of such erroneous or illegal assessment, such property did not become subject to taxation for such year, the board shall place the same on the roll of the current year at the valuation thereof, if any, fixed by the assessors for such preceding year; and in case no valuation was fixed by the assessors, such property shall be assessed by the board at such valuation as they may determine for the preceding year. Before fixing such valuation, the board of supervisors shall give to the owners of such property, at the time of the assessment by the board, a notice of at least five days and an opportunity to be heard, and on such hearing, the board shall have, as to such property, all the powers of the assessors of a tax district in reviewing and correcting an assessment-roll. Such property shall be taxed at the rate per centum of such preceding year. The whole amount of tax on property levied in pursuance of this section shall be deducted from the aggregate of taxation to be levied on the tax district for the current year, before such tax is levied.

§ 55. **Levy of tax by supervisors.**— The board of supervisors of each county shall, at its annual meeting, levy the taxes for the county, including the state tax, upon the valuations as equalized by it and estimate and set down in a separate column in the assessment-roll of each tax district therein, opposite to the sums set down as the valuation of real and personal property or property of incorporated companies or of the taxable rents reserved, the sum to be paid as a tax thereon, including the state tax, as fixed by the comptroller. Such assessment-roll shall, when the warrant is annexed thereto, become the tax-roll of the tax district, and a copy thereof shall be delivered to the proper supervisor, who shall deliver it to the clerk of the proper city or town to be kept by him for its use.

§ 56. **Tax-roll and collector's warrant.**— On or before December fifteenth, in each year, the board of supervisors shall annex to the tax-roll a warrant under the seal of the county, signed by the chairman and clerk of the board, commanding the collector of each tax district, to whom the same is directed, to collect from the several persons named in said roll the several sums mentioned in the last column thereof opposite their respective names, except taxes upon the shares of stock of banks and banking associations, on or before the first day of the following February, and further commanding him to pay over on or before that date, all moneys so collected, appearing on said roll, to the treasurer of the county, if he be a collector of a city or a division thereof, or if he be a collector of a town:

1. To the commissioners of highways of the town, such sum as shall have been raised for the support of highways and bridges therein.

2. To the overseers of the poor of the town, such sum as shall have been levied, to be expended by such overseers for the support of the poor therein.

3. To the supervisor of the town, all of the moneys levied therein, to defray any other town expenses or charges.

4. To the treasurer of the county, the residue of the money so to be collected.

If the law shall direct the taxes levied for any local or special purpose in a city or town, to be paid to any person or officer other than those named in this section, the warrant shall be varied so as to conform to such direction. The warrant shall authorize the collector to levy such taxes by distress and sale, in case of nonpayment. The corrected assessment-roll, or a fair copy thereof, shall be delivered by the board of supervisors to the collector of the tax district on or before December fifteenth, in each year.

Amended by ch. 550 of 1901. In effect April 25, 1901. This section was also amended by ch. 158 of 1901.

§ 57. **Statement of taxes upon certain corporations by clerk of supervisors.**— The clerk of each board of supervisors shall, within five days after the tax warrant is completed, deliver to the county treasurer, a statement showing the names, valuation of property and the amount of tax of every railroad corporation and telegraph, telephone and electric-light line in each tax dis-

trict in the county, and on refusal or neglect so to do, shall forfeit to the county the sum of one hundred dollars, to be sued for by the district attorney in the name of the county.

§ 58. **Statement of valuation to be forwarded to comptroller.**—The clerk of each board of supervisors shall, on or before the second Monday in December, transmit to the comptroller, in the form to be prescribed by such comptroller, a certificate or return of the aggregate assessed and equalized valuation of the real and personal estate in each tax district as the valuation of such real estate has been corrected by such board, and the amount of tax assessed thereon for town, city, school, county and state purposes. Also the names of the several incorporated companies liable to taxation in such county, the nature of their business, the amount of the capital stock paid in and secured to be paid in by each, the amount of real and personal property of each as put down by the assessors, or by it, the amount of taxes assessed on each, and the amount of personal property on which each such corporation is exempt on account of the payment of state taxes on its capital. In the city of New York such report shall be made by the clerk or the board of aldermen, and for the purpose of making such report he may require any department or board of such city to furnish the necessary information.

§ 59. **Abstract of warrant to be furnished county treasurer.**—On or before the twentieth day of December in each year, the clerk of the board of supervisors shall transmit to the treasurer of the county an abstract of the tax-rolls, stating the names of the collectors, the amount of money which each is to collect, the purpose for which it is to be collected, and the persons to whom and the time when it is to be paid. The county treasurer, on receiving such account, shall charge to each collector the amount to be collected by him.

§ 60. **Certain errors in roll to be corrected.**—The assessment of a non-resident parcel of real estate in the resident portion of the roll, the assessment of a resident parcel of real estate in the non-resident portion of the roll, an error in the name of the owner or occupant or the assessment of a parcel of real estate to the name of a deceased person or to his estate, shall not render the assessment invalid or render the tax levied on the valuation of said real estate invalid. The board of supervisors of each county may at any time before levying the tax as provided in article three of this act, at the request of the supervisor of the tax district in which the real estate is situated, correct any errors which may come to his knowledge in the assessment of any parcel of real estate in his district, in either of the cases mentioned in this section.

Added by ch. 171 of 1902. In effect March 15, 1902.

ARTICLE IV.

Collection of Taxes.

Section 70. Notice by collector.
71. Collection of taxes.
72. Collection of taxes assessed against stock in banks and banking associations.
73. Payment of taxes by railroad and certain other corporations.
74. Enforcement of tax against telegraph, telephone and electric light lines.
75. Collection of taxes on rents reserved.
76. Collection of unpaid taxes on debts owing to non-residents of the United States.
77. Return of warrant for collection of taxes on debts owing to nonresidents; neglect to make return.
78. Remedy of tenant for taxes on part of lot.
79. Payment of taxes on part of lot.
80. Payment of taxes on state lands in forest preserve.
81. Fees of collector.
82. Return by collector of unpaid taxes.
83. Return when collection has been enjoined.
84. Payment of moneys collected.
85. Extension of time for collection.
86. Appointment of collector in case of vacancy
87. When sheriff shall execute collector's warrant.
88. Satisfaction of collector's bond.
89. Unpaid tax on resident real property to be reassessed.
90. Payment to creditors of the county.
91. Payment of state tax.
92. Accounts of county treasurer with comptroller.
93. Losses by default of collector or treasurer.
94. Article, how applicable.

§ 70. **Notice by collector.**—Every collector, upon receiving a tax roll and warrant, shall forthwith cause notice of the reception thereof to be posted in five conspicuous places in the tax district, specifying one or more convenient places in such tax district, where he will attend from nine o'clock in the forenoon until four o'clock in the afternoon, at least three days, and if in a city, at least five days, in

each week for thirty days from the date of the notice, which shall be the date of the posting or first publication thereof, which days shall be specified in such notice, for the purpose of receiving the taxes assessed upon such roll. The collector shall attend accordingly, and any person may pay his taxes to such collector at the time and place so designated, or at any other time or place. In a city, the notice in addition to being posted shall be published once in each week, for two weeks successively, in a newspaper published in such city. On the written demand of a non-resident owner of real property included in such tax roll, and the payment by such owner to the collector of the sum of twenty-five cents, the collector shall within twenty-four hours after the receipt of such demand mail in a postpaid envelope directed to such non-resident owner, to the orders to be furnished in such demand, a statement of the amount of taxes assessed against such property with a notice of the dates and places fixed by him for receiving taxes.

Am'd by ch. 342 of 1899.

§ 70a. Notice to non-residents.—A person who is the owner of, or liable to assessment for, an interest in real property situated and liable to assessment and taxation in a town in which he is not actually a resident may file with the town clerk of such town a notice stating his name, residence and post-office address, a description of the premises sufficient to identify the same, and if situated in a village or school district, the name of such village and number and designation of such school district. The town clerk shall, within five days after the delivery of the warrants for the collection of taxes in such tax districts, furnish to the collectors of the town, and the collector of each village and school district in which such real property is situated, and such collectors shall within such time apply for, a transcript of all notices so filed, and such collectors shall within five days after the receipt of such transcripts mail to each person filing such notice, at the post-office address stated therein, a statement of the amount of taxes due on said property. Upon the filing of such notice the town clerk shall be entitled to receive a fee of one dollar from the person offering such notice, which shall be in full for all services rendered hereunder.

Added by ch. 338 of 1903. In effect May 6, 1903.

§ 71. Collection of taxes.—After the expiration of such period of thirty days, the collector shall call, at least once, on every person taxed upon such roll, whose taxes are unpaid, at his usual place of residence, if he is an actual inhabitant of such tax district, and demand payment of the taxes charged to him on his property. If any person shall neglect or refuse to pay any tax imposed on him, the collector shall levy upon any personal property in the county belonging to or in the possession of any person who ought to pay the tax, and cause the same to be sold at public auction for the payment of such tax, and the fees and expenses of collection; and no claim of property to be made thereto by any other person shall be available to prevent such sale. Public notice of the time and place of sale of the property to be sold shall be given by posting the same in at least three public places in the tax district where the sale is to be made, at least six days previous thereto. If the proceeds of such sale shall be more than the amount of such tax, the fees of the collection and the expenses of the sale, the surplus shall be paid to the person against whom the tax was assessed. If any other person shall claim the surplus, on the ground that the property sold belonged to him, and such claim be admitted by the person for the payment of whose tax the sale was made, such surplus shall be paid to such other person. If such claim be contested by the person for the payment of whose tax the property was sold, such surplus shall be paid over by the collector to the supervisor of the town, who shall retain the same until the rights of the parties thereto shall

be determined by due course of law, or by agreement in writing made by them and filed with the supervisor. The collector upon payment of the taxes shall state in the column of the tax roll provided therefor, the date of such payment, and shall write his name after such date.

Amended by ch. 159 of 1901. In effect March 22, 1901.

§ 72. **Collection of taxes assessed against stocks in banks and banking associations.**— Every bank or banking association shall retain any dividend until the delivery to the collector of the tax-roll and warrant of the current year, and within ten days after such delivery, shall pay to such collector so much of such dividend as may be necessary to pay any unpaid taxes assessed on the stock upon which such dividend is declared. In case the owner of such stock resides in a place other than where the bank or banking association is located, the same power may be exercised in collecting the tax so assessed as is given in case a person has removed from a tax district in which the assessment was made. The tax so assessed shall be and remain a lien on the shares of stock against which it is assessed till the payment of such tax, and if the stock is transferred it shall be subject to such lien. The collector or county treasurer may foreclose such lien in any court of record, and collect from the avails of the sale of the stock the tax assessed against the same. In addition thereto, the same remedy may be had for the collection of the tax on such shares as is now provided by law for enforcing payment of personal tax against residents.

§ 73. **Payment of taxes by railroad and certain other corporations.**— Any railroad, telegraph, telephone or electric-light company may, within thirty days after receipt of notice by the county treasurer from the clerk of the board of supervisors, pay its tax, with one per centum fees, to the county treasurer, who shall credit the same with such fees to the collector of the tax district, unless otherwise required by law. If not so paid the county treasurer shall notify the collector of the tax district where it is due, and he shall then proceed to collect under his warrant. Until such notice from the treasurer the collector shall not enforce payment of such taxes, but may receive the same, with the fees allowed by law, at any time.

§ 74. **Enforcement of tax against telegraph, telephone and electric-light lines.**— Collection of tax against a telegraph, telephone or electric-light line may be enforced by sale of the instruments and batteries connected with such line, and in case there

is not sufficient personal property, together with such instruments and batteries, to pay such tax and the percentage due the collector, he shall return a statement thereof to the county treasurer as other unpaid taxes are returned, and the county treasurer shall proceed to sell such part of the line in the tax district where the tax was levied as may be necessary to satisfy the unpaid taxes and percentage, in the manner now provided by law for the sale of lands on execution, and upon such sale shall execute to the purchaser a conveyance of such part of said line, and the purchaser shall thereupon become the owner thereof. Nothing herein contained shall be construed to prevent collection of such taxes by any procedure now provided by law.

§ 75. Collection of taxes on rents reserved.— If any tax upon any such tax-roll upon rents reserved is not paid, the collector shall collect the same by levy and sale of the personal property of the persons against whom the tax is levied, which may be found within the county. If no sufficient personal property belonging to such person can be found in the county, the collector shall collect such tax of the tenant or lessee in possession of the premises, on which the rent is reserved, in the same manner as if such tax had been assessed against such tenant or lessee. Every such tenant or lessee paying any such tax, or of whom any such tax shall be collected, shall be entitled to have the amount thereof, with interest, deducted from the amount of rent reserved upon such premises, which may be due or may thereafter become due thereon, or may maintain an action to recover the same.

§ 76. Collection of unpaid taxes on debts owing to nonresidents of the United States.— If it shall appear by the return of any collector that any tax imposed upon a debt owing to a person residing out of the United States remains unpaid, the county treasurer shall, after the expiration of twenty days from such return, issue his warrant to the sheriff of any county in this state where any debtor of any such nonresident creditor may reside, commanding him to make of the real and personal property of such nonresident the amount of such tax, to be specified in a schedule annexed to the warrant, with his fees and the sum of one dollar for the expense of issuing such warrant, and to return the warrant to the treasurer issuing the same, and to

pay over to him the money which shall be collected by virtue thereof, except the sheriff's fees, by a day therein to be specified within sixty days from the date thereof. The taxes upon several debts owing to a nonresident shall be included in one warrant. The taxes upon several debts owing to different nonresidents may be included in the same warrant, and the sheriff shall be directed to levy the sum specified in the schedule annexed, upon the real and personal property of the nonresidents, respectively, opposite to whose names, respectively, such sums shall be written, with fifty cents for the expenses of the warrant. Such warrant shall be a lien upon and shall bind the real and personal property of the nonresidents against whom issued from the time an actual levy shall be made upon any property by virtue thereof, and the sheriff to whom the warrant shall be directed shall proceed upon the same, in all respects, with like effect, and in the same manner, as prescribed by law, in respect to execution against property issued upon judgment rendered in the supreme court, and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner.

§ 77. **Return of warrant for collection of taxes on debts owing to nonresidents; neglect to make return.**— If any sheriff shall neglect to return any such warrant as directed therein, or to pay over any money collected by him in pursuance thereof, he shall be proceeded against in the supreme court by attachment in the same manner, and with like effect, as for similar neglect in reference to an execution issued out of the supreme court in a similar action, and the proceedings therein shall be the same in all respects. If any such warrant shall be returned unsatisfied, wholly or partly, the county treasurer may obtain an order from a judge of the supreme court of the district, or a county judge of the county, of such treasurer, issuing the warrant, requiring such nonresident or any person having property of such nonresident or indebted to him, to appear and answer concerning the property of such nonresident. The same remedies and proceedings may be had in the name of such county treasurer or comptroller before the officer granting such order, and with a like effect, as are provided by law in proceedings against a judgment debtor

supplementary to execution against him, returned wholly or in part unsatisfied. The expenses of a county treasurer, and such compensation as the board of supervisors may allow him for his services under this section, and for making and transmitting to the assessors of the several towns of his county an abstract or copy of the statements of the agents of nonresident creditors, shall be a county charge.

§ 78. Remedy of tenant for taxes paid by him.— If a tax upon real property shall have been collected of any occupant or tenant, and any other person, by agreement or otherwise, ought to pay such tax, or any part thereof, such occupant or tenant shall be entitled to recover, by action, the amount which such person ought to have paid; or to retain the same from any rent due or accruing from him to such person for the land so taxed.

§ 79. Payment of taxes on part of lot.— The collector shall receive the tax on part of any lot, piece or parcel of land charged with taxes, provided the person paying such tax shall furnish such particular specification of such part, and in case the tax on the remainder thereof shall remain unpaid the collector shall enter such specification on his return to the county treasurer, clearly showing the part on which the tax remains unpaid, and if the part on which the tax shall be so paid shall be an undivided share, the person paying the same shall state to the collector who is the owner of such share, and the collector shall enter the name of such owner on his account of arrears of taxes, and such share shall be excepted in case of a sale for the tax on the remainder.

§ 80. Payment of taxes on state lands in forest preserve.— The treasurer of the state, upon the certificate of the comptroller as to the correct amount of such tax, shall pay the tax levied upon state lands in the forest preserve, by crediting to the treasurer of the county in which such lands may be situated, such taxes, upon the amount payable by such county treasurer to the state for state tax. No fees shall be allowed by the comptroller to the county treasurer for such portion of the state tax as is so paid.

§ 81. **Fees of collector.** — On all taxes paid within thirty days from the date of notice that he has received the roll, the collector shall be entitled to receive, if the aggregate amount shall not exceed two thousand dollars, two per centum, and otherwise one per centum, in addition thereto. On all taxes collected after the expiration of such period of thirty days, the collector shall be entitled to receive five per centum in addition thereto. The collector shall be entitled to receive from the county treasury two per centum as fees for all taxes returned to the county treasury as unpaid.

§ 82. **Return by collector of unpaid taxes.**—Every collector who makes and delivers to the county treasurer an account of unpaid taxes, upon the tax-roll annexed to his warrant, which he shall not have been able to collect, verified by his affidavit, that the sums mentioned therein remain unpaid, and that he has not, upon diligent inquiry, been able to discover any personal property out of which the same could be collected by levy and sale, shall be credited by the county treasurer with the amount of such account. In making such return of unpaid taxes, the collector shall add thereto five per centum of the amount thereof. In case such tax is uncollected upon lands assessed to a resident he shall also state the reason why the same was not collected. Any collector who has heretofore, or shall hereafter fail in making such return of unpaid taxes, may make such return, whether his term of office has expired or not, verified by his affidavit, to the county treasurer any time within eight years after such failure and before the lands against which said taxes are assessed, are advertised for sale pursuant to this act, in case any collector shall heretofore or hereafter fail to add said five per centum the county treasurer shall add the aforesaid five per centum of the amount of said uncollected tax aforesaid. Such return shall be indorsed upon or attached to said roll, and shall be in the form to be prescribed by the state board of tax commissioners. Such tax and percentage may be paid to the county treasurer at any time before a return is made to the comptroller. The county treasurer in counties in which lands are sold by him for the non-payment of taxes, is hereby authorized to incur and pay for such expenses as he may deem necessary for the examination of collector's returns and descriptions of property to be sold pursuant to this act, and the procurement of proper collector's returns and the examinations and procurement of matters and facts as he may deem necessary to make a valid tax sale hereunder, but such expense shall not exceed the amount of the five per centum added as aforesaid.

Amended by ch. 517 of 1901. In effect April 24, 1901.

§ 83. **Return when collection has been enjoined.**—Any stay, lawfully granted by any court of record by injunction or other order or proceeding, of the collection of any tax existing at the expiration of the period for the collection of the tax under any warrant or process in the hands of the collector or other officer for the collection thereof, or existing at the time of the expiration of the term of office of the collector or officer holding such warrant, shall operate as an extension of the time within which such collector or other officer may collect such tax until such stay is terminated and for the period of thirty days thereafter. As to

all other taxes to be collected under any such warrant or process, the collector or officer holding the warrant or process shall make a return thereof within the time prescribed by law.

§ 84. Payment of money collected.— Every collector shall, within one week after the time prescribed in his warrant for the payment of the moneys directed therein to be paid, pay to the officers and persons specified therein, the sums required in such warrant to be paid to them respectively. The officers and persons other than the county treasurer, to whom any such money shall be paid, shall deliver to the collector duplicate receipts therefor, one of which duplicates shall be filed by the collector with the county treasurer and shall entitle him to a credit in the books of the county treasurer for the amount therein stated to have been received, and no other evidence of such payment shall be received by the county treasurer. If any greater amount of taxes shall be levied in any town than the town charges thereof, and its proportionate share of the state taxes and county charges, the surplus shall be paid by the collector to the county treasurer, who shall place it to the credit of such town, and it shall go to the reduction of the tax upon the town for the succeeding year.

§ 85. Extension of time for collection.— The county treasurer, upon application of the supervisor of any town or common council of any city in his county, may extend the time for collection of taxes remaining unpaid to a day not later than May first, following, in case the collector shall pay over all moneys collected by him and make his return of nonresident taxes, and renew his bond in a penalty twice the amount of the taxes remaining uncollected, approved by the proper officers upon filing the same, as the original bond is required to be filed, and delivering a certified copy thereof to such treasurer. Receivers of taxes who have filed a bond as required by statute shall not be required to renew their bonds. This section shall not affect any special law relating to the extension of time for the collection of taxes, nor be construed to extend the time for the payment of the state tax by the county treasurer, as required by this chapter.

§ 86. Appointment of collector in case of vacancy.— If a person chosen to the office of collector of a town shall refuse to serve or be disabled from entering upon or completing the duties

of his office from any cause, the town board shall forthwith appoint a collector for the remainder of the year, who shall give the same undertaking, be subject to the same duties and penalties and have the same powers and compensation as the collector in whose place he was appointed. The supervisor of the town shall forthwith give notice of such appointment to the county treasurer. Such appointment shall not exonerate the former collector or his sureties from any liability incurred by him or them. If a warrant shall have been issued by the board of supervisors before the appointment of a collector to fill a vacancy or before the appointment of a collector under this section, the original warrant, if obtainable, shall be delivered to the collector so appointed and shall give him the same powers as if originally issued to him. If such warrant is not obtainable, a new one shall be issued by the chairman and clerk of the board of supervisors of the county, directed to the collector appointed, with the same force and effect as if originally issued to him. Upon any such appointment, the supervisor of the town or ward, if he shall deem it necessary, may extend the time limited for the collection of taxes, for a period not exceeding thirty days, and forthwith give notice of such extension to the county treasurer.

§ 87. **When sheriff shall execute collector's warrant.**— If the collector of any tax district in the State shall neglect or refuse to execute an official bond or undertaking as required by law, or the supervisor of the town shall refuse or neglect to approve and file the same, within the time prescribed by law, and a new collector shall not have been appointed within ten days after the time when such bond or undertaking should have been filed, the board of supervisors shall deliver the tax-roll or a copy thereof with the warrant annexed, to the sheriff, who shall give a like undertaking as is required from the collector, and who shall then proceed with the collection of the taxes levied therein in like manner as collectors are authorized by law to do, and with like powers and subject to the same duties and obligations. Every such warrant shall require all payments therein specified to be made by the sheriff within sixty days after the receipt of the warrant by him. The expense of the collection of such taxes by him, if any, over and above the fees lawfully chargeable by the collector,

shall be audited by the board of supervisors and shall be a charge upon the town.

§ 88. **Satisfaction of collector's bond.**—Upon the settlement of the account of taxes directed to be collected by a collector in any town or city, except in the city of New York, the county treasurer shall, if requested, and if the collector shall have fully paid over or duly accounted for all the taxes which he was by law to collect, give to such collector or any of his sureties, a written certificate of such settlement, duly acknowledged, and upon the filing thereof in the office of the clerk where the undertaking is recorded, the clerk shall enter satisfaction of such undertaking which shall thereby be discharged; except that in counties containing cities of the first class such satisfaction when so entered shall only discharge the lien of said bond or undertaking upon the real estate of the collector and his sureties, but the liability of the collector and his sureties upon such bond or undertaking for a failure upon the part of such collector to pay over moneys collected by him shall be in no wise impaired.

Am'd by ch. 321 of 1899.

§89. **Unpaid taxes on resident real property to be reassessed.**—When the tax on any real property, not assessed as non-resident, is returned as unpaid and so remains, the county treasurer shall immediately deliver a transcript thereof to the supervisor of the tax district in which such tax was assessed. Such supervisor shall, if in his power, within thirty days thereafter, cause an accurate description of such real property to be made and returned to said treasurer, with the correct amount of taxes thereon, each kind of tax being stated separately, and if necessary, he may cause a survey and map of any of said real property to be made, and the expense of such survey and map on, or for each lot or parcel shall be returned to said treasurer, and be a legal charge upon such real property and be collected with the taxes thereon. The amount of such tax shall bear interest at the rate of eight per centum per annum from the first day of February until paid, or until the sale of such property to satisfy such tax by the county treasurer, or if the property is located in a county embracing a portion of the forest preserve, until the return of such unpaid tax to the comptroller. And such real property and the tax thereon shall be regarded for all purposes of assessment, collection and sale as nonresident, and subject to all the provisions of the tax law in relation to non-resident real property and non-resident taxes.

Amended by ch. 171 of 1902. In effect March 15, 1902.

§ 90. **Payment to creditors of the county.**—Each county treasurer shall pay to the creditors of the county from the moneys paid to him by the collectors of taxes of the several towns therein, such sums and in such manner as the board of supervisors of the county direct.

§ 91. **Payment of state tax.**—The comptroller shall charge each county treasurer with the amount of the state tax levied on his county, except the tax for schools, crediting him with his fees, if any, but no fees shall be allowed by the comptroller for such portion of the state tax as is credited by him for unpaid non-resident taxes. The county treasurer of each county shall, after retaining his fees thereon, at the rate of one per centum thereof, which shall not, however, in any case exceed fifteen hundred dollars, for all taxes for state purposes, including schools, pay the state tax to the treasurer of the state, as follows: One-third of the state tax exclusive of the state tax for schools on or before the fifteenth day of February, one-third thereof on or before the fifteenth day of April, and, unless otherwise provided by law, the balance thereof on or before the fifteenth day of May in each year, and notify the comptroller of such payment. Whenever the state tax for schools, payable by any county shall exceed the apportionment to such county of state school moneys as made by the state superintendent of public instruction, in accordance with the provisions of the consolidated school law, such excess shall be paid by the treasurer of such county to the treasurer of the state on or before the fifteenth day of March in each year and such treasurer shall notify the state superintendent of public instruction of such payment. If there are not sufficient funds in the county treasury standing to the credit of any town to pay the state tax chargeable thereto, the treasurer shall borrow sufficient money upon the credit of the county and charge the same against such town, with interest thereon, until the same is paid. If any county treasurer shall not pay over the state tax including state tax for schools, as herein directed, the comptroller shall charge on all sums withheld such rate of interest as shall be sufficient to repay all expenditures incurred by the state in borrowing money equivalent to the amount so withheld, and such additional rate as he shall deem proper, not exceeding ten per centum, from the dates herinbefore provided for such payments in each year, which shall be regarded as funds in the hands of the county treasurer belonging to the state and for which his sureties and county shall be liable. The fees of the county treasurer for collecting and paying over the school tax shall be allowed and paid by the superintendent of public instruction.

Am'd ch. 361 of 1898.
Am'd by ch. 378 of 1902. In effect April 7, 1902.

§ 92. **Accounts of county treasurer with comptroller.**—The comptroller shall state annually on June first, the account of each county treasurer, and if any part of a state tax is unpaid at that date, the comptroller shall transmit by mail to the county treasurer a copy of such accounts and a requisition that he must pay the balance due the state within thirty days, and if the tax

is not paid within such time, the comptroller shall, unless he is satisfied by due proof that the treasurer has not received such balance, and has used due diligence in collecting the same, forthwith deliver a copy of the account to the attorney-general, who shall take the necessary proceedings to collect the same of the county treasurer or his sureties or otherwise, with interest as provided by the last preceding section. The comptroller may also, in his discretion, direct the board of supervisors of the county to institute the necessary proceedings on the undertaking of such county treasurer and his sureties. The comptroller shall also transmit to the board of supervisors on or before October tenth, a statement of account between his office and the county treasurer.

§ 93. **Losses by default of collector or treasurer.**— All losses sustained, and all deficiencies in any taxes, or in the payments to be made therefrom, by reason of the default of any collector, shall be chargeable to the town, or city of which he is collector. If occasioned by the default of the treasurer of any county in the discharge of his official duties, such losses shall be chargeable to such county. Any judgment against such treasurer for any such loss or deficiency on account of the state tax upon which an execution shall have been issued and returned unsatisfied shall be conclusive as to the fact of such loss or deficiency, and the amount of such deficiency shall thereupon become a charge against such county, and the board of supervisors thereof shall add all such losses or deficiencies to the next year's taxes of such town, city or county, and levy the same thereon.

§ 94. **Receipts for taxes.**—The collector shall deliver a receipt to each person paying a tax, specifying the date of such payment, the name of such person, the description of the property as shown on the assessment-roll, the name of the person to whom the same is assessed, the amount of such tax, and the date of the delivery to him of the assessment-roll on account of which such tax was paid. For the purpose of giving such receipt, each collector shall have a book of blank receipts, so arranged that when a receipt is torn therefrom a corresponding stub will remain. The state board of tax commissioners shall prescribe the form of such receipts, stubs and books and they shall be furnished to the collector by the board of supervisors, at the expense of the county. At the time of giving such a receipt, the collector shall make the same entries on the corresponding stub as are required to be made on the receipt. Such book shall be subject to public inspection and shall be filed by the collector with his return, together with the assessment-roll in the office of the county treasurer.

[Am'd, ch. 489, 1897.]

§ 95. **Article, how applicable.**— This article shall apply to all the cities or towns of the state, in so far as the matters herein provided for do not conflict with the special and local laws of such cities or towns.

[Added ch 489, 1897,]

ARTICLE V.

Collection of Nonresident Taxes.

Section 100. Return of unpaid nonresident taxes.
101. Rejection of taxes.
102. Admission of nonresident taxes by comptroller and its effect.

Section 103. Payment to the county treasurer of excess of arrears credited.
104. Cancellation of tax by comptroller.
105. Transmittal of statement of cancelled taxes to board of supervisors.
106. Correction of imperfect descriptions.
107. Nonresident taxes, when and how paid the comptroller.
108. Reduction of overcharges.
109. Overpaid taxes.

§ 100. **Return of unpaid nonresident taxes.**—The collector shall return the original assessment-roll to the county treasurer, and when the treasurer finds an account of unpaid taxes on real property or unpaid taxes on corporations, received from a collector to be a true transcript of such original assessment-roll to which the collector's warrant is attached, with the descriptions furnished by the supervisor as provided in section eighty-nine, he shall add to it a certificate that he has examined and compared the account with such roll and found it to be correct, and after crediting the collector with the amount thereof, he shall, except in Saint Lawrence, Lewis and Oneida counties, in case his county embraces a portion of the forest preserve, before the first day of May next ensuing, transmit such account, affidavit and certificate to the comptroller who may before acting thereon return any such account to the county treasurer for correction, who shall make such correction and return to the comptroller in one month thereafter or as the comptroller may otherwise direct.

[Am'd, ch. 362 of 1898.]
Amended by ch. 171 of 1902. In effect March 15, 1902.

§ 101. **Rejection of taxes.**—The comptroller shall examine every account of arrears of taxes on lands of nonresidents received from the country treasurer and reject all taxes entered therein, found to be erroneous, or charged on lands imperfectly described, and shall annually on or about September first, transmit to each county treasurer a transcript of the taxes of the preceding year in any tax district of his county, which shall have been rejected for any cause, with the grounds of such rejection.

The comptroller may correct the description of real property in cases where the error is of such nature that the word, words or figures necessary to correct the same are self evident from the context.

Amended by ch. 171 of 1902. In effect March 15, 1902.
Amended by ch. 171 of 1902. In effect March 15, 1902.

§ 102. **Admission of nonresident taxes by comptroller and its effect.**—The comptroller shall admit all such taxes, properly assessed, and credit the county treasurer therewith, and such account, when accepted by him, shall be deemed conclusive

evidence of the regularity and validity of all taxes therein so admitted, and all prior proceedings in assessing the lands and levying and collecting such taxes, except when it shall be satisfactorily proven to the comptroller that any such tax was paid in the county, or that there was no legal right to levy the same, or that it arose from a double assessment, the tax levied on one of which has been paid.

§ 103. **Payment to the county treasurer of excess of arrears credited.**— If the arrears of taxes on lands of nonresidents credited to the treasurer of any county by the comptroller shall exceed the state tax in such county, the comptroller shall pay such excess, or the whole amount of such arrears, if there be no state tax, after deducting therefrom any balance due from the county, to the county treasurer, and the whole amount of such arrears and taxes shall thereafter belong to the state and be collected for its benefit.

§ 104. **Cancellation of tax by comptroller.**— The comptroller shall cancel any tax credited to a county upon the books in his office, which he shall discover after the transmission of the annual transcript of rejected taxes of such county to the county treasurer, to be erroneous, or charged on lands imperfectly described, and charge such taxes to the county in which such lands shall lie, with the interest thereon from March first, in the year following the levy of the taxes, to February first next after such cancellation. The comptroller shall cancel any tax returned as unpaid if it shall be made to appear to him that previously to such return it was paid to the collector or county treasurer, and if it shall also have been paid into the state treasury, he shall cause it to be repaid out of the treasury to the person by whom such payment shall have been made.

§ 105. **Transmittal of statement of canceled taxes to board of supervisors.**— The comptroller shall transmit a transcript of the returns of all taxes canceled, with the addition of interest thereon, to the county treasurer, who shall deliver a copy thereof to a supervisor of the tax district in which such taxes were assessed, by whom it shall be returned to the board of supervisors at their next annual meeting. If such tax district shall have been divided since the assessment, the county treasurer shall

deliver such transcript to the board of supervisors at their next annual meeting. If any such cancellation was by reason of the tax having been paid before the same was returned by the county treasurer, such treasurer, shall present the transcript to the board of supervisors of the county, and the amount of such tax, with the interest, shall be collected by such board of the collector or the county treasurer who made the erroneous returns, and shall be paid into the state treasury.

§ 106. Correction of imperfect descriptions.*—The supervisor of the tax district in which any lands are situated, upon which a tax shall have been rejected by the comptroller, or shall have been canceled and charged to the county to which it had previously been credited, shall add to the assessment-roll of the tax district in which the land is situated for the year during which a transcript of the returns of such taxes shall have been forwarded by the comptroller to the county treasurer, an accurate description of such lands, if he can obtain the same, the correct amount of taxes thereon, the tax of each year and each kind of tax separately, and shall furnish the comptroller with all such maps and surveys of such lands as shall be required by him. Such supervisor may, if necessary, cause a survey and map of each lot or parcel returned for more perfect description to be made, and the expense of such survey and map shall be a town charge. The board of supervisors shall direct the collection of such taxes so added to such assessment-roll, and they shall be considered the taxes of the year in which the description shall be perfected. If any such supervisor shall not fully comply with the provisions of this section the comptroller shall not thereafter admit, but shall reject, all such reassessed, canceled or rejected taxes as may be returned to him. If such taxes are not levied upon such lands as herein required, the board of supervisors shall cause the same, with interest thereon, to be levied upon the tax district in which originally assessed, and collected with the other taxes of the same year. If the tax district shall have been divided since such assessment, such taxes and interest shall be apportioned by the board of supervisors among the tax districts included in the limits of such original tax districts in such equitable manner as it may deem proper.

* Compare with L. 1855, ch. 427, § 19, post.

§ 107. **Nonresident taxes, when and how paid to comptroller.** — The comptroller shall, at any time after August first, next after receiving statement thereof from the county treasurer, furnish any person desiring to pay the taxes on any parcel of land, a certificate of the amount of such taxes, interest and charges, and the State treasurer may receive payment therefor upon such certificate, which shall be countersigned by the comptroller and entered in the books of his office. Such interest shall begin August first, of such year, and be at the rate of ten per centum per annum. Any person claiming a divided or undivided part in any parcel may pay to the State treasurer any part of the amount due thereon, proportionate to the share or interest claimed by him, on the certificate of the comptroller. The remaining tax and charges shall be a lien on the residue of the land or interest only. If the land has been subdivided since the assessment, the comptroller may require a map of the subdivisions. Any person may pay the tax for any one year on any tract or lot of land without paying the tax of any other year.

§ 108. **Deduction of overcharges.**— If any tract or lot of land shall have been returned as containing a greater quantity of land than it actually contained, the amount overcharged shall be deducted. If the tax shall have been paid according to such return, the overcharge shall be refunded out of the treasury upon the production to the comptroller of satisfactory proof of the quantity actually contained in each tract or lot at the time of the assessment. No such overcharge shall be cancelled nor such over-payments refunded, unless application shall be made to the comptroller before the sale of such lands, and within six years after the assessment. If the whole amount of the tax shall have been paid to the county treasurer out of the state treasury, the comptroller shall charge the amount so refunded with interest and charges thereon to the treasurer of the county to which the tax was returned, and shall transmit an account thereof to him. The county treasurer shall deliver such account to the board of supervisors at their next annual meeting, which shall cause the amount thereof to be added to the taxes of the tax district in which the tax was assessed, and when collected it shall be paid into the treasury of the county.

§ 109. **Overpaid taxes.**— If it shall satisfactorily appear to the comptroller that the amount of any tax has been paid, and afterwards other money has been paid into the state treasury on account of such tax or that the amount of any tax has been overpaid to the treasurer of the state, he may draw his warrant on the treasury for the amount paid in excess of the tax due, in favor of the person paying the same.

ARTICLE VI.

Sale by Comptroller for Unpaid Taxes and Redemption of Lands.

Section 120. Notice of sale.
121. Maps to be furnished comptroller.
122. Sale, how conducted.
123. Purchases by comptroller, for state or county.
124. Withdrawal from sale of lands upon which the state has a lien.
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128. Redemption of lands conjointly assessed.
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130. Notice of unredeemed lands.
131. Comptroller's deed.
132. Effect of former deeds.
133. Possession of lands by the state.
134. Notice to occupants.
135. Certificate of nonredemption and completion of title.
136. Redemption by occupant and certificate of redemption.
137. Redemption by occupant before notice and effect of failure to redeem.
138. Lien of mortgage not affected by tax sale.
139. Redemption by mortgagee before notice.
140. Cancellation of sales.
141. Setting aside cancellation of sale.
142. Expenses of sale.
143. Payment of moneys into state treasury.

§ 120. Notice of sale.— The comptroller may sell any lands heretofore or hereafter returned to him for nonpayment of any tax thereon, if such tax and the interest thereon, or any part thereof shall remain unpaid for one year after February first, following the year in which the tax was levied. He shall make out a list of all such lands in any county and transmit to the county treasurer thereof at least eighteen weeks before the commencement of the sale, a number of copies of such list sufficient to furnish five copies to the county treasurer, two copies to the county clerk and two copies to the clerk of each town and city in which such lands are situated. The county treasurer shall transmit the same to such officers. The comptroller shall publish such list with a notice, that on a day to be specified therein and the succeeding days, so much of such lands as may be necessary to discharge the taxes, interest and charges due thereon at the time of sale, will be sold at public auction at the capitol in the city of Albany. Such list shall be inserted in two newspapers published in such county, once in each week for twelve successive weeks prior to the commencement of the sale, and in the body of the newspapers and not in a supplement. If there are not two newspapers published in the county, the publication shall be in two newspapers which the comptroller shall determine to be most generally circulated in the county. Due proof of the publication of such list and notice in each newspaper shall be made and filed in the office of the comptroller within twenty days after the last publication. The expense of printing, publishing and transmitting such list shall be audited by the comptroller and paid out of the state treasury. No error in the description of the lands in any list published in any newspaper shall render any sale void or in any manner affect its validity.

§ 121. Maps to be furnished comptroller.— The comptroller may apply to the supervisor of any town for maps of any tract of land returned from such town for nonpayment of taxes, if he deem it necessary in order to test the correctness of the description thereof, preparatory to a sale of such lands, and the supervisor shall furnish such maps at the expense of the town, if they

can be procured; if not, he shall furnish such descriptions of the lands as he can obtain, with a statement of the quantity in each subdivision, if the same is divided. The treasurer of every county shall, on receiving a list of lands to be sold at a state sale transmit to the comptroller at least one month before any state tax sale, a certified list of all lands bid in at any tax sale, in the name of such county, or transferred to such county upon any such sale, or to which the county may have acquired a tax title, the deed for which has not been recorded in the office of the clerk of the county, which may then be liable to be sold at such sale. Every county clerk shall, on receipt of a list of the lands therein liable to be sold at any state tax sale, and at least one month before the sale, transmit to the comptroller a certified list of all lands the conveyances of which are on record in his office, then owned by such county, and liable to be sold at such sale.

§ 122. **Sale, how conducted.**— On the day mentioned in the notice of sale the comptroller shall commence the sale of the lands specified in the lists annexed to the notice, and continue the sale from day to day, until so much of each parcel shall be sold as will be sufficient to pay all the taxes thereon for the years for the taxes of which such sale shall be made, with the interest and charges thereon. In case no purchaser bids the amount due on any lot or parcel, the comptroller is authorized to bid in such lot or parcel for the state. The comptroller may, in his discretion, decline to receive any bid on any parcel of land, if in his opinion, it is made by or for any person not acting in good faith, and any such land shall be sold at such sale the same as if such bid had not been made thereon. And in case the land is located in a county outside the forest preserve, the comptroller may sell and assign the certificate therefor at any time before the expiration of the period for redemption, on such terms as to him shall seem for the best interests of the state.

§ 123. **Purchases by the comptroller for state or county.**— The comptroller shall bid in for the state all lands of the state, and also all lands which may have been bid in by or for the state at any tax sale which has not been canceled, or from which said lands have not been duly redeemed, liable to be sold at any tax sale held by him, or lands that are then mortgaged to the commissioners for

loaning certain moneys of the United States and for each county, all lands belonging to such county liable to be sold at such sale, and also all lands which may have been bid in by or for such county at any tax sale which has not been canceled or from which said lands have not been duly redeemed; and to reject any and all bids made for any of such lands. The comptroller shall make certificates of sales for all lands so bid in by him, describing the lands purchased and specifying the time when a deed therefor can be obtained. Such purchases shall be subject to the same right of redemption as purchases by individuals; and if the land so sold shall not be redeemed, the comptroller's deed therefor shall have the same effect and become absolute in the same time, and on the performance of the like conditions as in the case of sales and conveyances to individuals The comptroller shall charge to each county, on the books of his office, the amount for which it may be liable, by reason of any purchase made in accordance with this section, and such amount shall become due on the last day of each tax sale, and shall be payable in the same manner as the state tax is required by law to be paid. The comptroller shall, as soon as practicable, after each tax sale, transmit the certificates of sale for such lands to the treasurer of each of such counties, on receipt of which the county treasurer shall enter the same, in their proper order, in a book to be kept by him for such purpose, and unless otherwise directed by the board of supervisors of his county, shall have full power and authority, until the expiration of one year from the last day of such sale, to sell and assign any of such certificates for any land not at the time owned by his county, on payment therefor, into the county treasury, of the amount for which the land described therein was sold at such tax sale, with interest thereon, from the date of such tax sale to the date of such sale and assignment by him. All such sales and assignments shall be duly and fully entered by such county treasurer in such book, which book shall be a part of the records of the county. If any such tax sale certificate shall not have been sold or assigned by the respective county treasurers on or before the expiration of one year from the last day of such sale, each of such county treasurers shall then transmit such unsold

certificate or certificates to the comptroller, who shall issue to the board of supervisors of each county, respectively, a deed or deeds for all of the lands described thereon then remaining unredeemed, or the sale for which has not been cancelled. The title thus acquired by the boards of supervisors shall be held by them in trust for their respective counties, and may be disposed of by them at such times and on such terms as shall be determined by a majority of such board at any regular or special meeting thereof.

[Am'd, ch. 233 of 1897.]

§ 124. **Withdrawal from sale of lands upon which the state has a lien.** — No land against which the people of the state of New York hold a bond or lien for any part of the purchase price thereof shall be sold, but all such land shall be withdrawn from such sale. The amount of taxes, interest and expenses for which it may be liable to sale as shown by the comptroller's book of sales shall be charged against each lot, piece or parcel of such land in the books in the comptroller's office in which the accounts of school funds and other bonded lands are kept, and the state treasurer shall, on the receipt of a statement of such amounts, charge the same against the respective lots, pieces or parcels of land, on which they are due, on the duplicate bond-books kept in his office. The holder of the certificate or contract of purchase of any such land, may discharge the same from liability in consequence of such charge, by paying to the state treasurer at any time within two years after the last day of sale from which such lands were withdrawn, the amount of such charges with interest thereon at the rate of ten per centum annually. If such payment is not made, the comptroller shall, at the expiration of such two years, state an account of the indebtedness against each lot, piece or parcel of such land, with the addition of thirty-seven and one-half per centum thereto, and the amount of principal and interest due on the bond or lien thereon, to the commissioners of the land office, who may thereupon, if default shall be made in the payment of such bond, direct the comptroller to put the same in suit, or shall direct the state engineer and surveyor to again sell the lands against which such indebtedness remains. Upon any sale thereof, all previous payments made on account

of such land shall be forfeited to the people of the state. No conveyance of any such lands shall be made to any purchaser, until all such taxes and expenses charged against the same on such bond-book are paid into the state treasury.

§ 125. **Payment of bids and certificate of purchase.**— Every purchaser at any sale of lands by the comptroller under this article shall pay the amount of his bid to the state treasurer within forty-eight hours after the last day of sale. Upon the payment of a bid to the comptroller he shall give to the purchaser a written certificate, describing the lands purchased, the sum paid and the time when the purchaser will be entitled to a deed.

§ 126. **New certificate upon setting aside sale.**— If a purchaser shall not have paid his bid, or the same shall not have been collected from him at the expiration of one month from the conclusion of the sale, at which the bid was made, the comptroller may set aside the sale of land for which the bid was made, and all the rights of the purchaser under such bid shall thereby be extinguished, and the comptroller shall issue a certificate of such sale if the land be in a county including a portion of the forest preserve, to the people of the state. If said land be in a county not including any portion of the forest preserve, such certificate shall be issued to any person who will pay the same amount as would be payable by the original purchaser in case the sale had not been set aside. If such certificate shall not have been sold within three months from the date of such sale he shall transfer the same to the people of the state. If the transfer be to the people, the whole quantity of land liable to sale for the purchase-money mentioned in the certificate shall be covered by such purchase, the same as if no person had offered to bid therefor at the sale. The change of purchaser made pursuant to this section and the time when made shall be noted in the sales book, and the certificate issued shall confer the same right upon the state as it would have acquired had the land been bid in for it at the sale.

§ 127. **Redemption of lands.**— The owner or occupant of any lands sold by the comptroller for taxes, or any other person

having an interest therein at the time of the sale, may redeem the same from such sale at any time within one year after the last day of the sale, by paying to the state treasurer, on the certificate of the comptroller for the use of the purchaser, his heirs or assigns, the sum mentioned in the certificate of sale therefor, with interest thereon at the rate of ten per centum per annum, after the date of such certificate of sale. The purchaser of any wild, vacant or unoccupied land at any such sale, or his assigns, shall not enter upon or exercise acts of ownership on such land, until the expiration of one year allowed for the redemption thereof from such sale. A person having an interest in an undivided part of any tract, lot or piece of land so sold, or in an undivided share in any tract or lot of land out of which an undivided part shall have been sold, may redeem such undivided part or share by paying such proportion of the purchase-money and interest as shall be in proportion to the part or share of the lands sold which he shall claim. Every person having an interest in a specific part of any tract, lot or piece of land, so sold, or lot of land out of which an undivided part may have been sold for taxes charged on the whole tract or lot, may redeem such specific part by paying such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity of acres sold, or to the whole quantity taxed. Any person claiming a specific part of any tract or lot of land, out of which a specific part belonging to some other person shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying to the comptroller at any time before the expiration of the time allowed for the redemption thereof, such proportion of the purchase-money and interest as his quantity of acres shall bear to the whole quantity taxed, and such payment shall operate as a redemption of his proportionate part of the lands sold according to the amount paid. Upon a partial redemption under this section, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption and the comptroller shall convey accordingly.

§ 128. **Redemption of lands conjointly assessed.**— If the lands

of one person shall be sold for taxes assessed conjointly on his lands and lands of another, and the latter shall not pay his due proportion required for the redemption of his lands, the former may redeem the same on paying to the comptroller the purchase-money and interest, and he shall be entitled to recover, after the expiration of the time allowed for redemption, from the other person whose lands were assessed with his, a just proportion of the redemption moneys paid, with interest. If the lands of one person so sold for taxes assessed conjointly on his lands and the lands of another person, shall not be redeemed, and they shall be conveyed by the comptroller, the former may recover from the latter the same proportion of the value of the lands sold and conveyed, that the latter ought to have paid of the tax and interest and charges for which the land shall have been sold. Every judgment obtained under this section shall have priority as against the lands of the defendant therein, on which the tax was assessed, and for which such proportionate part ought to have been paid, over all mortgages and judgments, if at the time of docketing such judgment the plaintiff cause an entry to be made by the clerk in the docket thereof, specifying that such judgment has priority as a lien on certain lands, over mortgages and other judgments, pursuant to the tax law, which entry shall be a part of such docket. In all actions under this section, the certificate of the state treasurer, countersigned by the comptroller, stating the facts in relation to such redemption, or sale and conveyance, shall be presumptive evidence of all facts therein stated.

§ 129. **Prohibition of the despoliation of lands sold.**— Neither the owner, occupant nor any other person shall have the right to despoil any lands sold for taxes by the comptroller of their value, by the removal of buildings or by cutting, removing or destroying timber, or other valuable products, growing, existing or being thereon at the time of sale. The purchaser of any wild, vacant, or unoccupied land at the sale thereof by the comptroller, whose bid therefor shall have been fully paid, or his assigns or representatives may at any time before obtaining his deed, cause to be served a notice on any person despoiling such lands or inter-

ested in such despoliation, either personally or by leaving the same at the residence of such person, or with any member of his family of suitable age and discretion. The notice shall describe such lands, substantially as sold, shall state that it was sold for taxes by the comptroller, and that an action to recover the value of the buildings, timber or other products destroyed or removed therefrom, after the date of sale thereof, will be instituted against all persons concerned in such despoliation. If such lands shall not be redeemed, every person engaged or interested in making such despoliation, upon whom service of the notice shall have been made, shall be liable to pay to the holder of the tax sale certificate therefor the full value of any building so destroyed or removed therefrom, and of all the timber, bark, or other products so cut or destroyed or removed therefrom, from the date of the sale of such land to the termination of such action, and may be restrained by injunction from committing any waste thereon,

§ 130. **Notice of unredeemed lands.**—The comptroller shall, at least three months before the expiration of the one year allowed for the redemption of lands sold by him for taxes, cause a notice to be published once in each week for at least six weeks successively, the last publication to be at least six weeks before expiration of the year, in the newspapers designated by the board of supervisors of the county in which such lands are situated, to publish the session laws, containing a list of the lands in such county sold for taxes and unredeemed, specifying particularly every parcel unredeemed, and the amount necessary to redeem the same, calculated to the last day in which such redemption can be made, and stating that, unless such lands are redeemed by a certain day, they will be conveyed to the purchaser. If more than two newspapers in any county are designated in pursuance of law to publish the session laws, such publication shall be made in two of the newspapers so designated to be selected by the comptroller, representing different political parties. If no newspaper shall have been so designated in any county such publication shall be made in two newspapers in the county, to be selected by the comptroller, and if there shall not be two newspapers published in the county, then in two newspapers which the comptroller shall determine to be most generally circulated in such county, representing each of the political parties casting the largest number of votes therein at the general election next preceding such designation. The expense of such publication shall be audited and paid by the board of supervisors of the county in which such lands are situated.

§ 131. **Comptroller's deed and application therefor.**—The owner of any certificate of sale of land sold by the comptroller for taxes after

January first, nineteen hundred and two, and not redeemed, (except the state, and the purchaser at the tax sale who is the owner with a duly recorded title of the land sold), must make application in writing to the comptroller for a conveyance of the land described in the certificate within four years after the expiration of one year from the last day of the sale. The owner of any certificate of sale of land sold by the comptroller for taxes prior to January first, nineteen hundred and two, (except the state, and the purchaser at the tax sale who is the owner with a duly recorded title of the land sold,) must make application in writing to the comptroller for a conveyance of such land within one year after May first, nineteen hundred and two, provided the purchaser at the tax sale, his heirs, devisees, executors or testamentary trustees have not conveyed the land therein described and such conveyance been duly recorded, or mortgaged the same and the mortgage has been foreclosed and the land sold and conveyed thereunder or said land has not been redeemed from the tax sale. If application for a conveyance is not made as herein provided the certificate shall become void, and no claim can be maintained under the purchase. After the expiration of one year from the time of sale, the comptroller shall after application in writing therefor and upon the surrender of the certificate or upon proof to his satisfaction that the certificate has been lost or is wrongfully detained, execute in the name of the people of the state, to the owner of such certificate, a conveyance of any lands so sold by him for taxes and not redeemed, under his hand and official seal, and witnessed by the deputy comptroller, or state treasurer, which shall vest in the grantee an absolute estate in fee simple, subject to all claims which the state may have thereon for taxes or other liens or incumbrances, and which shall be presumptive evidence that the sale and all proceedings prior thereto, from and including the assessment of the lands sold, and that all notices required by law to be given previous to the expiration of the time allowed by law for the redemption thereof, were regular and in accordance with all the provisions of law relating thereto. After two years from the date of such conveyance such presumption shall be conclusive. Every certificate of conveyance executed by the comptroller under this act may be recorded in the same manner and with like effect as a conveyance of real estate properly acknowledged or proven.

Am'd. ch. 339 of 1898.
Am'd by ch. 344 of 1902. In effect April 3, 1902.

§ 132. Effect of former deeds.— Every such conveyance heretofore executed by the comptroller, county treasurer or county judge and all conveyances of the same lands by his grantee or grantees therein named, which have for two years been recorded in the office of the clerk of the county in which the lands conveyed thereby are located, and all outstanding certificates of a tax sale heretofore held by the comptroller, that shall have remained in force for two years after the last day allowed by law for redemption from such sale, shall be conclusive evidence that the sale and proceedings prior thereto, from and including the assessment of the lands, and all notices required by law to be

given previous to the expiration of the time allowed for redemption, were regular and were regularly given, published and served according to the provisions of all laws directing and requiring the same or in any manner relating thereto, but all such conveyances and certificates, and the taxes and tax sales on which they are based, shall be subject to cancellation, by reason of the payment of such taxes, or by reason of the levying of such taxes by a town or ward having no legal right to assess the land on which they are laid, or by reason of any defect in the proceedings affecting the jurisdiction upon constitutional grounds, on direct application to the comptroller, or in an action brought before a competent court therefor; provided, however, that such application shall be made, or such action brought, in the case of all sales held prior to the year eighteen hundred and ninety-five, within one year from the passage of this act; and in the case of the sale of eighteen hundred and ninety-five and of all sales hereafter held, that such application shall be made, or such action brought, within five years from the expiration of the period allowed by law for the redemption of lands sold at the particular sale sought to be cancelled.

§ 133. **Possession of lands by the state.**— The comptroller may advertise once a week, for at least three weeks successively, a list of the wild, vacant and forest lands to which the state holds title, from a tax sale or otherwise, in one or more newspapers to be selected by him, published in the county in which the lands are situated, and from and after the expiration of such time, all such wild, vacant and forest lands are hereby declared to be and shall be deemed to be in the actual possession of the comptroller, and such possession shall be deemed to continue until he has been dispossessed by the judgment of a court of competent jurisdiction.

§ 134. **Notice to occupants.**— If any lot or separate tract of land sold for taxes by the comptroller and conveyed, or any part thereof shall, at the time of the expiration of one year given for the redemption thereof, be in the actual occupancy of any person, the grantee to whom the same shall have been conveyed, or the person claiming under him shall within one year from the expiration of the time to redeem, serve a written notice on the person occupying such land, either personally or by leaving the same at the dwelling-house of the occupant, with

a person of suitable age and discretion belonging to his family. If the occupant does not reside in the tax district in which the real estate is situated the notice may be served by mail in the manner required by law in respect to notices of non-acceptance or non-payment of notes or bills of exchange. Service on one joint tenant or tenant in common shall be service on all the joint tenants or tenants in common. Service on a tenant shall be service on his landlord. The term "occupant" shall be construed to mean a person who has lawfully entered upon the land so occupied, and is in possession of the same to the exclusion of every other person. And the term "occupancy" shall mean the actual lawful and exclusive use and possession of such lands and premises by such an occupant. The notice shall state in substance, the sale and conveyance of the land, the person to whom made, the amount of consideration money mentioned in the conveyance, with the addition of thirty-seven and one-half per centum thereon, and of the sum paid for the deed, and that unless such consideration money and percentage with the sum paid for the deed, shall be paid into the state treasury for the benefit of the grantee, within six months after the time of filing in the comptroller's office of the evidence of the service of such notice, the conveyance shall become absolute and the occupant and all others interested in the land be forever barred from all right or title thereto. No conveyance made in pursuance of this section shall be recorded until the expiration of the time mentioned in such notice, and the evidence of the service of such notice shall be recorded with such conveyance.

Amended by ch. 171 of 1902. In effect March 15, 1902.

§ 135. Certificate of nonredemption and completion of title. —Within one month after the service of any such notice, the grantee or person claiming under him, in order to complete his title to the land conveyed shall file with the comptroller a copy of the notice served, with the affidavit of a person, certified as credible by the officer before whom the affidavit is taken, that the notice was duly served specifying the mode of service. If the comptroller shall be satisfied that the proper notice has been duly served, and if the moneys required for the redemption of such land shall not have been paid within the six months, he shall under his hand and official seal, certify such facts, and the conveyance before made shall thereupon become absolute and the occupant and all others interested in such lands shall be forever barred from all right and title thereto.

§ 136. **Redemption by occupant and certificate of redemption.**— The occupant, or any other person having an interest therein at the time of the sale, may at any time within the six months mentioned in such notice redeem such land by paying into the treasury the consideration money with the addition of thirty-seven and one-half per centum thereon and the amount paid for the deed. Every such redemption shall be as effectual as if made before the expiration of the year allowed for the redemption of the land sold. In all cases of application for redemptions on the ground of occupancy, in which a part only of the separate lot or tract of land thus sold is occupied, the applicant shall be allowed to redeem only that particular part of the lot or tract sold which shall be actually occupied, used and possessed as herein defined, at the time of the expiration of the one year given for the redemption thereof; provided, that the notice required to be served upon such occupant by the purchaser at a tax sale, his grantee or person claiming under him, shall, in addition to other facts now required to be stated therein, contain a specific description of the particular part of the lot or tract sold which may be redeemed and the amount necessary to redeem the same. Such partial redemption may be allowed upon filing in the office of the comptroller, satisfactory evidence of such occupancy, and of the extent thereof, and by paying such proportion of the consideration money mentioned in the conveyance, with the addition of thirty-seven and one-half per centum of such amount and the further addition of the sum paid for the deeds, as the value of the lands and the premises occupied and sought to be redeemed bears to the value of the whole quantity of land sold; such value to be determined and fixed by the comptroller.

§ 137. **Redemption by occupant before notice and effect of failure to redeem.**— The occupant of any lot or separate tract of land sold for taxes by the comptroller, or any part thereof, or any person who had the title thereto or an interest therein at time of the sale may, at any time before the service of such notice by the purchaser or the person claiming under him and within two years from the expiration of the year allowed by law for the

redemption thereof and not thereafter, redeem any land so occupied, by filing in the office of the comptroller, satisfactory evidence of the occupancy required, and by paying to him the consideration money for which the lands to be redeemed were sold and thirty-seven and one-half per centum thereon, with the sum paid for the deed, if any. On application for such redemption the comptroller may appoint a commissioner to take all material evidence offered with reference to the occupation of the lands in question. The hearing shall be had in the county where the land is situated, on at least ten days' notice to the party applying for the redemption. The commissioner shall have the same power to issue subpoenas and proceed with the examination of witnesses under oath, as is had by a referee in a court of record. His compensation shall not exceed six dollars per day and shall be taxed by the comptroller and paid upon his warrant by the treasurer. He shall report the testimony taken by him with his opinion thereon, to the comptroller for his decision. Such occupant or other person shall also pay to the comptroller such amounts as may have been paid to the state for subsequent taxes thereon, or for redemption from subsequent tax sales thereof, and if such lot has been legally exempt from taxation for one or more years subsequent to the sale, a sum equal to the gross amount of taxes and interest which would have been due thereon, if it had been taxed during each of the years it was so exempt, on its assessed valuation, and at the rate per centum of taxation thereon for the year when last returned to the comptroller's office. In case of failure to redeem within the time herein specified, the sale and conveyance thereof shall become absolute and the occupant and all other persons barred forever.

§ 138. **Lien of mortgage not affected by tax sale.**— The lien of a mortgage, duly recorded or registered at the time of the sale of any lands for non-payment of any tax or assessment thereon, shall not be destroyed, or in any manner affected, except as provided in this section. The purchaser at any such sale shall give to the mortgagee a written notice of such sale within one year from the expiration of the time to redeem, and in case of tax sales hereto-

fore held, where the time of redemption by mortgagees has not expired, within three years from the passage of this act, requiring him to pay the amount of purchase-money, with interest at the rate allowed by law in case of redemption by occupants, within six months after giving the notice. Such notice may be given either personally or in the manner required by law in respect to notices of non-acceptance or non-payment of notes or bills of exchange, and a notarial certificate thereof shall be presumptive evidence of the fact that may be recorded in the county in which the mortgage was recorded, in the same manner and with the same effect as a deed or other evidence of title of real property.

[Am'd, ch. 373 of 1897.

§ 139. Redemption by mortgagee before notice.—The holder of any mortgage which is duly recorded at the time of the sale, may, at any time after the sale of all or any part of the mortgaged premises for unpaid taxes, and before the expiration of six months from the giving of the notice required by this article to be given to a mortgagee, redeem the premises so sold, or any part thereof from such sale. The redemption shall be made by filing with the comptroller a written description of his mortgage, and by paying to the state treasurer, upon the certificate of the comptroller, for the use of the purchaser, his heirs or assigns, the sum mentioned in his certificate, with interest at the rate allowed by law in case of redemption by occupants from the date of such certificate. The holder of such mortgage shall have a lien upon the premises redeemed for the amount so paid with interest from the time of payment, in like manner as if it had been included in the mortgage. Provided, however, that the notice required to be given under this and the last preceding section shall be directed only to such persons as shall within two years from the time of such sale, and in case of all sales held before April twenty-fourth, eighteen hundred and ninety-seven the date of the taking effect of chapter three hundred and seventy-three of the laws of eighteen hundred and ninety-seven, where the time allowed by law for redemption by mortgagees had not then expired within two years from April twenty-fourth, eighteen hundred and ninety-seven file in the office of the comptroller a notice, stating the names of mortgagor and mortgagee, the date of the mortgage, and the amount claimed to be due thereon, and the county, town and tract in which the mortgaged premises are situated, with the number of the lot on

which said mortgage is claimed to be a lien, with the name of the person or persons claiming notice, their residence and the post office, to which such notice shall be addressed. A purchaser of mortgaged premises at a sale thereof under and in pursuance of a judgment or decree of foreclosure of a mortgage thereof, held within two years after April twenty-fourth, eighteen hundred and ninety-seven, shall be deemed in all actions and proceedings relating to the redemption of said premises from any previous tax sales thereof, to have been the holder of said mortgage and to have been entitled to take the like proceedings for the redemption of said premises from such tax sales and with the like effect, as the holder of such mortgage would have been entitled to if there had been no foreclosure of such mortgage.

Amended by ch. 605 of 1901. In effect April 29, 1901.

§ 140. **Cancellation of sales.**— The comptroller shall not convey any lands sold for taxes if he shall discover before the conveyance, that the sale was for any cause invalid or ineffectual to give title to the lands sold; but he shall cancel the sale and forthwith cause the purchase-money and interest thereon to be refunded out of the state treasury to the purchaser, his representatives or assigns. If the error originated with the county or town officers the sum paid shall be a charge against the county from which the tax was returned, and the board of supervisors thereof shall cause the same to be assessed, levied and collected and paid into the state treasury. If he shall not discover that the sale was invalid until after a conveyance of the lands sold shall have been executed he shall, on application of any person having any interest therein at the time of the sale, on receiving proof thereof, cancel the sale, refund out of the state treasury to the purchaser, his representatives or assigns, the purchase-money and interest thereon, and recharge the county from which the tax was returned, with the amount of purchase-money and interest from the time of sale, which the county shall cause to be levied and paid into the state treasury. On any such application the comptroller may appoint a commissioner with like powers and duties as in case of an application for redemption; provided, however, that in any county which does not include a portion of the forest preserve, such application for cancellation may also be made by the owner of the lands at the time of the tax sale.

§ 141. **Setting aside cancellation of sale.** — The comptroller is hereby authorized and empowered and shall, upon the application of anyone whomsoever aggrieved thereby, set aside any cancellation of sale made by him, or by any of his predecessors in office, in either of the following cases:

First. When such cancellation was procured by fraud or misrepresentation.

Second. When it was procured by the suppression of any material fact bearing on the case.

Third. When it was made under a mistake of fact.

Fourth. When such cancellation was made upon an application which the comptroller, or any of his predecessors in office, had no jurisdiction or legal right to entertain at the time of such cancellation.

Eight days written notice of an application made under and pursuant to this section shall be served upon the person upon whose application such sale was canceled, or his heirs or grantees, the county treasurer of the county or counties in which the lands affected by such application are situate and upon the attorney-general of the state of New York; in case any of the parties to be served are not residents of the state of New York, or can not after reasonable diligence be found within the state of New York, such notice may be served by the publication thereof in a newspaper published in the county or counties where the lands affected by such application are situate, and also in the newspaper printed at Albany, in which legal notices are required to be published, once in each week for three weeks immediately preceding the day upon which such application is to be made, and also by mailing a copy of said notice to each of said parties at their last known place of residence; and on or before the day of the first publication all papers upon which such application is to be made shall be filed in the office of the comptroller. The comptroller shall in all cases specify the grounds upon which such cancellation is set aside, and every such cancellation set aside by the comptroller shall in every and all respects have the same force and effect as though no cancellation thereof had ever been made.

[Am'd, ch. 392 of 1897.]

§ 142. **Expenses of sale.**— The expenses attending any sale for taxes under this article, including the expenses of printing and publishing lists and notices and transmitting copies thereof, and of all other things required to be done before the sale shall be had, shall be a charge on the lands liable to be sold; and the comptroller shall add to the taxes, interest and other charges on each parcel of land liable to be sold, an equal proportionate part of such expenses to be estimated by him.

§ 143. **Payment of moneys into state treasury.**— The moneys received upon any sale and interest under this article, and for the expenses of the sale shall be paid into the state treasury and the accounts of all persons entitled to any portion of the moneys so received for such expenses, shall be audited by the comptroller and paid out of the state treasury.

ARTICLE VII.

Sales by County Treasurers for Unpaid Taxes and Redemption of Lands.

Section 150. When lands to be sold for unpaid taxes.
151. Advertisement and sale.
152. Redemption.
153. Conveyance by county treasurer.
154. Conveyance and its effect.
155. When purchase money to be refunded.
156. Lands which the state owns or upon which it has a lien.
157. Provisions relative to comptroller to apply to treasurer.
158. Article not to relate to certain cities.

§ 150. When lands to be sold for unpaid taxes.—Whenever any tax charged on real estate, in the counties of Saint Lawrence, Lewis and Oneida, or in a county not including a portion of the forest preserve, is returned to the county treasurer, he shall not return the same to the comptroller, but if such tax, with interest thereon at the rate of ten per centum per annum, computed from the first day of February after the same is levied, shall remain unpaid for six months from that date, such county treasurer shall advertise and sell such real estate, as herein provided, for the payment of such tax and interest and the expense of such sale. The expense of publication of the notice of sale and the list of lands to be sold and the expense of conducting the sale, and the expense of publication of the notice of unredeemed lands, if thereafter redeemed, shall be a charge on the land liable to be sold and shall be added to the tax and interest. The county treasurer of the county of Rockland may defer the sale of any parcel of non-resident real estate in such county for unpaid taxes, until the unpaid taxes thereon with accrued interest shall amount in the aggregate to the sum of two dollars.

Amended by ch. 261 of 1901. In effect April 4, 1901.
Amended by ch. 171 of 1902. In effect March 15, 1902.
Amended by ch. 170 of 1903. In effect April 14, 1903.

§ 151. Advertisement and sale.—The county treasurer shall immediately after the expiration of such six months cause to be published at least once in each week for six weeks, in two newspapers designated for the publication of the session laws, a list of real estate so liable to be sold, together with a notice that such real estate will, on a day at the expiration of said six weeks specified in such notice, and the succeeding days, be sold at public auction at the courthouse in the county where the same is situated, to discharge the taxes, interest and expenses that may be due thereon at the time of such sale. On the day mentioned in such notice the county treasurer shall begin the sale of said real estate and continue the same from day to day. The charge for publishing such notice shall be seventy-five cents per folio for the first insertion, and fifty cents per folio for each subsequent insertion. The counties of Saint Lawrence, Lewis and Oneida, and the counties of the state other than those in the forest preserve are empowered to acquire and hold such lands. Within twenty days after the time for redemption has expired the county treasurers of each of the counties of Saint Lawrence, Lewis and Oneida shall file with the comptroller a certified statement of all tracts or parcels of land situated in the forest preserve which have been bid in by the county and have not been redeemed, and shall sell and convey to the state any tract or parcel of land specified in such statement, which the comptroller shall designate within six months after such statement is filed, upon the payment of the taxes,

interests and expenses due thereon at the time of the sale and also all taxes assessed thereon since such sale, and the comptroller shall draw his warrant on the state treasurer for the amount thereof, or credit the county with such amount on the books of his office. After the expiration of such six months, in the counties of Saint Lawrence, Lewis and Oneida, and after the time for redemption has expired in any other county, the county treasurer is authorized in the name of the board of supervisors of the county to sell and convey under his hand and seal such lands as have not been conveyed to the state in the manner and upon such terms as the board of supervisors of the county may direct.

[Am'd, ch. 362 of 1898.]

§ 152. **Redemption.**— The owner, occupant or any other person having an interest in any real estate sold for taxes as aforesaid, may redeem the same at any time within one year after the last day of such sale, by paying to the county treasurer of the county, for the use of the purchaser, the sum mentioned in his certificate, together with interest thereon at the rate of ten per centum per annum, to be computed from the date of such certificate, and any tax which the holder of said certificate shall have paid between the days of sale and redemption.

§ 153. **Conveyance by county treasurer.**—If such real estate, or any portion thereof, be not redeemed as herein provided, the county treasurer shall execute to the purchaser a conveyance of the real estate so sold, the description of which real estate shall include a specific statement of whose title or interest is thereby conveyed, so far as appears on the record, which conveyance shall vest in the grantee an absolute estate in fee, subject, however, to all claims the county or state may have thereon for taxes or liens or incumbrance. The county treasurer shall receive from the purchaser fifty cents for preparing such conveyance and ten cents additional for each piece or parcel of land described therein, exceeding the first. All purchases made for the county shall be included in one conveyance, for which the county treasurer shall receive ten dollars. Every such conveyance shall be executed by the treasurer of the county, under his hand and seal, and may be recorded in the same manner and with like effect as a conveyance of real estate properly acknowledged

or proven. The money received by the county treasurer on every such sale shall be applied by him, after deducting the expenses thereof, in like manner as if the same had been paid to him by the collectors of the several towns.

[Am'd, ch. 339 of 1898.]

§ 154. **Conveyance and its effect.**— A purchaser or his legal representative may, upon receiving a conveyance under and by virtue thereof, possess and enjoy for his own use the real estate described in such conveyance, unless redeemed as herein provided, and after the expiration of the time to redeem the same, may cause the occupant of such real estate to be removed therefrom, and the possession to be delivered to him in the same manner and by the same proceedings, and before the same officers as in the case of a tenant holding over after the expiration of his term without permission of his landlord.

§ 155. **When purchase money to be refunded.**— Whenever any purchaser under such sale shall be unable to regain possession of the real estate purchased by him by reason of error or irregularity in the assessment or levying of a tax, or in proceedings for the collection thereof, the board of supervisors of the county shall refund the purchase-money so paid, with interest upon the same being presented and audited as other county charges, and such moneys shall be charged over to the tax district where the irregularity arose.

§ 156. **Lands which the state owns or upon which it has a lien.** — The county treasurer of any county not embracing a portion of the forest preserve shall, at least two months prior to any tax sale to be held by him, transmit to the comptroller an accurate and complete list of all the lands in such county to be sold thereat. The state comptroller shall, at least two weeks prior to any such tax sale, transmit to such county treasurer a list of all lands advertised to be sold at such tax sale, belonging to the state, or shall then be mortgaged to the commissioners for loaning certain moneys of the United States, or against which the state holds a bond or lien, for any part of the purchase money thereof, or for which the state may then hold a tax sale certificate. The county treasurer conducting such sale shall bid

in for the state all lands described in the list transmitted to him by the comptroller, and shall, at the close of such sale, transmit to the comptroller a verified and itemized statement showing the amount of each bid made in the name of the state thereat, and the state comptroller shall, within ten days after the receipt by him of such statement, draw his warrant on the state treasurer for the amount thereof or credit the county with the amount of such statement on the books of his office.

§ 157. **Provisions relative to comptroller to apply to treasurer.** — The provisions of article six of this act, entitled sales by comptroller for unpaid taxes and redemption of lands" shall, in so far as it is not otherwise herein provided, govern and control the action of the county treasurer, who shall perform the duties therein devolved upon the comptroller and the same rights and remedies shall be deemed to exist under the provisions of this article as are provided for in said article six.

§ 158. **Article not to relate to certain cities.**— This or the preceding article shall not affect any law relating to the sale of real estate for taxes in any city.

ARTICLE VIII.

State Board of Tax Commissioners; State Board of Equalization.

Section 170. Board of tax commissioners.
171. Powers and duties of board of tax commissioners.
172. Tax commissioners to visit counties.
173. State board of equalization; powers and duties.
174. Appeals to the state board of tax commissioners from equalization of board of supervisors.
175. Appeals, how conducted.
176. Determination of appeals.
177. Costs on appeal.

§ 170. **State board of tax commissioners.**—The tax commissioners now in office shall continue in office for the terms for which they were appointed, and they and their successors shall constitute the state board of tax commissioners. On the expiration of their terms the governor shall appoint three

commissioners by and with the advice and consent of the senate, to hold office for three years, and so classified that the term of office of one of them shall expire with the thirty-first day of December in each year, and in case of a vacancy the appointment shall be for the unexpired term. Each commissioner shall receive an annual compensation of five thousand dollars, payable monthly, and in addition thereto the expenses actually incurred by him, in the discharge of his official duties, including expenses while attending meetings of the commission.

Am'd by Chap. 94 of 1900. In effect.March 8, 1900.

§ 171. **Powers and duties of state board of tax commissioners**— The state board of tax commissioners shall:

First. Investigate and examine, from time to time, as to the methods of assessment within the state.

Second. Furnish local assessors with such information as may be necessary or proper to aid them in making the assessment thereof.

Third. Make such rules and regulations as may be necessary to enforce the provisions of this article and prepare forms for reports and assessment-rolls, and furnish the same to assessors and other officers at the expense of the state.

Fourth. Take testimony and hear proofs, under oath, with reference to any matter within the line of its official duty. Any member of such board may be designated for that purpose. And it may require from all state and municipal officers such information as may be necessary for the proper discharge of its duties.

Fifth. Hold meetings at an office to be assigned it in one of the state buildings at Albany, at such times as may be fixed by the chairman of the board or by adjournment thereof, or at such other places as it may designate.

Sixth. Employ a secretary, prescribe his duties and fix his salary at a sum not to exceed thirty-five hundred dollars per annum; employ not to exceed six special agents who shall be deemed the confidential agents of the board; and experts and other needed assistants and prescribe their duties. It shall fix the compensation of such employees, which shall not exceed in the aggregate the amount annually appropriated by the legislature for that purpose.

Am'd by chap. 94 of 1900. In effect March 8, 1900.

Seventh. Prepare an annual report to the legislature and recommend such changes or amendments to the tax laws as it may deem advisable.

Eighth. Perform the other powers and duties conferred upon it by law.

§ 172. Tax commissioners to visit counties.— Two or more of the members of the board of tax commissioners shall officially visit every county in the state at least once in two years, and inquire into the methods of assessment and taxation, and ascertain whether the assessors faithfully discharge their duties and particularly as to their compliance with this act requiring the assessment of all property not exempt from taxation at its full value.

§ 173. State board of equalization; powers and duties.— The commissioners of the land office and the three commissioners of taxes shall constitute the state board of equalization. The state board of equalization shall meet in the city of Albany on the first Tuesday in September in each year, for the purpose of examining and revising the valuations of real and personal property of the several counties as returned to the board of tax commissioners, and shall fix the aggregate amount of assessment for each county, upon which the comptroller shall compute the state tax. Such board may increase or diminish the aggregate valuations of real property in any county by adding or deducting such sum as in its opinion may be just and necessary to produce a just relation between the valuations of real property in the state. But it shall, in no instance, reduce the aggregate valuations of all the counties below the aggregate valuations thereof as so returned. The comptroller shall immediately ascertain from this assessment, a copy of which shall be transmitted to him, the proportion of state tax each county shall pay, and mail a statement of the amount to the county clerk, and to the chairman and clerk of the board of supervisors of each county.

§ 174. Appeals to the state board of tax commissioners from equalization by board of supervisors.—Any supervisor may appeal in behalf of the town, city or ward, which he wholly or in part represents, to the state board of tax commissioners, from any act or decision of the board of supervisors, in the equalization of assessments and the correction of the assessment-rolls. If such appeal is brought in behalf of a town, a majority of the town board of such town, if in behalf of a city, a majority of the supervisors representing such city, or if the assessment in

the wards of any city are equalized separately and such wards have separate assessment-rolls, then the alderman or aldermen representing such ward in the common council of the city, shall first consent to and approve of the bringing of such appeal. Such appeal shall be brought within ten days after the delivery of the assessment-roll to the collector by filing in the office of the county clerk a notice thereof, with such consent indorsed thereon or annexed thereto, together with the affidavit of the supervisor so appealing, that in his opinion injustice has been done to such town, city or ward by the act or decision from which the appeal is taken; and also within such time, by serving personally or by mail, a duplicate or copy of such notice, consent and affidavit on the chairman or clerk of the board of supervisors, and by mailing such a copy or duplicate to the state board of tax commissioners.

§ 175. Appeals, how conducted.— The board of tax commissioners may prepare a form of petition and notice of appeal from decisions of the board of supervisors in the equalization of assessment and rules and regulations in relation to bringing such appeals to a hearing or trial thereof. Such rules shall provide for a hearing on the papers and proofs submitted to the board of supervisors on making the equalization, in case the party so desires, and also, in case the notice of appeal so specifies, for the taking of additional evidence offered by either party. The appeal shall be heard in the county in which it originated. In either case such hearing shall be had at a time and place to be fixed by the board upon notice of at least twenty days by mail to the party appealing and to the clerk of the board of supervisors of the county in which the appeal is taken. If the appellant or his successor fails to appear at the time and place appointed or upon any day to which such hearing and trial shall be adjourned, the board shall make an order dismissing the appeal, which shall have the same effect as if the appeal had not been sustained after a hearing on the merits.

§ 176. Determination of appeals.— On every such hearing or trial, the board of tax commissioners shall determine whether any, and if any, what deductions ought to be made from the aggregate corrected value of the real and personal property of

such tax district as made and to what tax district or districts in such county the amount of such deductions, if any, shall be added; and shall certify their determination, in writing, to such board of supervisors and forward the same by mail within ten days thereafter to the clerk of the board, directed to him at his post-office address and forward a copy thereof to the supervisor appealing. Such determination shall be carried into effect by such board at its next annual session.

§ 177. Costs on appeal.— The board of tax commissioners shall certify the reasonable expense on every such appeal, not exceeding the sum of two thousand dollars, for services of counsel and one thousand dollars for all other expenses, including the compensation and expense of the stenographer. If such appeal is not sustained, the costs and expenses thereof so certified shall be a charge upon the tax district or districts taking such appeal and shall be levied thereon by the board of supervisors. If the appeal is sustained, the amount of such costs and expenses so certified shall be levied by the board of supervisors upon, and collected from, the county in the assessment and collection of taxes for the current year, except the tax district or tax districts whose appeal is sustained. If there shall be appeals by more than one tax district in the county, some of which are sustained and some dismissed, the state board shall decide what portion of such costs and expenses shall be borne by any tax district whose appeal is dismissed.

ARTICLE IX.

Corporation Tax.

Section 180. Organization tax.
181. License tax on foreign corporations.
182. Franchise tax on corporations.
183. Certain corporations exempted from tax on capital stock tax.*
184. Additional franchise tax on transportation and transmission corporations and associations.
185. Franchise tax on elevated railroads or surface railroads not operated by steam.

* So in the original.

Section 186. Franchise tax on water-works companies, gas companies, electric or steam heating, lighting and power companies.
187. Franchise tax on insurance corporations.
187a. Franchise tax on trust companies.
187b. Franchise tax on savings banks.
188. Tax upon foreign bankers.
189. Report of corporations.
190. Value of stock to be appraised.
191. Further requirements as to reports of corporations.
192. Powers of comptroller to examine into affairs of corporations.
193. Notice of statement of tax; interest.
194. Payment of tax and penalty for failure.
195. Revision and readjustment of accounts by comptroller.
196. Review of determination of comptroller by certiorari.
197. Regulations as to such writ of certiorari.
198. Warrant for the collection of taxes.
199. Information of delinquents.
200. Action for recovery of taxes; forfeiture of charter of delinquent corporations.
201. Reports to be made by the secretary of state.
202. Exemptions from other state taxation.
203. Application of tax.

§ 180. **Organization tax.**—Every stock corporation incorporated under any law of this state shall pay to the state treasurer a tax of one-twentieth of one per centum upon the amount of capital stock which the corporation is authorized to have, and a like tax upon any subsequent increase. Provided that in no case shall such tax be less than one dollar. Such tax shall be due and payable upon the incorporation of such corporation or upon the increase of its capital stock. Except in the case of a railroad corporation neither the secretary of state nor county clerk shall file any certificate of incorporation or article of association, or give any certificate to any such corporation or association until he is furnished a receipt for such tax from the state treasurer, and no stock corporation shall have or exercise any corporate franchise or powers, or carry on business in this state until such tax shall have been paid. In case of the consolidation of existing corporations into a corporation, such new corporation shall be required to pay the tax herein-

before provided for only upon the amount of its capital stock in excess of the aggregate amount of capital stock of said corporations. This section shall not apply to state and national banks or to building, mutual loan, accumulating fund and co-operative associations. A railroad corporation need not pay such tax at the time of filing its certificate of incorporation, but shall pay the same before the railroad commissioners shall grant a certificate, as required by the railroad law authorizing the construction of the road as proposed in its articles of association, and such certificate shall not be granted by the board of railroad commissioners until it is furnished with a receipt for such tax from the state treasurer.

Amended by ch. 448 or 1901. In effect April 22, 1901.

§ 181. **License tax on foreign corporations.**—Every foreign corporation, except banking corporations, fire, marine, casualty and life insurance companies co-operative fraternal insurance companies and building and loan associations, authorized to do business under the general corporation law, shall pay to the state treasurer, for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital stock employed by it within this state, during the first year of carrying on its business in this state; and if any year thereafter any such corporation shall employ an increased amount of its capital stock within this state, the same license fee shall be due and payable upon any such increase. The tax imposed by this section on a corporation not heretofore subject to its provisions shall be paid on the first day of December, nineteen hundred and one; to be computed upon the basis of the amount of capital stock employed by it within the state during the year preceding such date, unless on such date such corporation shall not have employed capital within the state for a period of thirteen months in which case it shall be paid within the time otherwise provided by this section. No action shall be maintained or recovery had in any of the courts in this state by such foreign corporation without obtaining a receipt for the license fee hereby imposed within thirteen months after beginning such business within the state, or if at the time this section takes effect such a corporation has been engaged in business within this state for more than twelve months, without obtaining such receipt within thirty days after such tax is due.

Amended by ch. 558 of 1901. In effect April 26, 1901.

§ 182. **Franchise tax on corporations.**—Every corporation, joint stock company or association incorporated, organized or formed under, by or pursuant to law in this state, shall pay to the state treasurer annually an annual tax to be computed upon the basis of the amount of its capital stock employed within this state, and upon each dollar of such amount, at the rate of one-quarter of a mill for each one per centum of dividends made and declared upon its capital stock during each year, ending with the thirty-first day of October, if the dividends amount to six or more than six per centum upon the par value of such capital stock. If such dividend or dividends amount to less than six per centum on the par value of the capital stock, the tax shall be at the rate of one and one-half mills upon such portion of the capital stock at par as the amount of capital

employed within this state bears to the entire capital of the corporation. If no dividend is made or declared, the tax shall be at the rate of one and one-half mills upon each dollar of the appraised capital employed within this state. If such corporation, joint stock company or association shall have more than one kind of capital stock, and upon one of such kinds of stock a dividend or dividends amounting to six or more than six per centum upon the par value thereof, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter of a mill for each one per centum of dividends made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto, a tax shall be charged at the rate of one and one-half mills upon every dollar of the valuation made in accordance with the provisions of this act of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared, did not amount to six per centum; provided, however, that a street surface railroad corporation or a steam railroad corporation, owning in a city a street surface railroad not operated by steam, in cases where the street surface roads of said owning corporations are operated by another street surface railroad corporation under a lease or otherwise, in so far as the dividends made and declared upon the capital stock of the said owning corporations shall be paid from the gross earnings of the said operating corporation in the form of rent or otherwise, shall only be required under this section to pay a tax of three per centum upon the dividends declared and paid from the moneys received in the form of rent or otherwise from the operating company in excess of four per centum upon the amount of its capital stock, provided, however, that nothing in this section shall relieve the said operating company of any of the liabilities imposed by section one hundred and eighty-five of this chapter. Every corporation, joint stock company or association organized, incorporated or formed under the laws of any other state or country shall pay a like tax for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, to be computed upon the basis of the capital employed by it within this state.

Amended by ch. 558 of 1901. In effect April 26, 1901.

§ 183. **Certain corporations exempt from tax on capital stock.**— Banks, savings banks, institutions for savings, title guaranty, insurance or surety corporations, every trust company incorporated, organized or formed, under, by or pursuant to a law of this state, and any company authorized to do a trust company business solely or in connection with any other business, under a general or special law of this state, laundry corporations, manufacturing corporations to the extent only of the capital actually employed in this state in manufacturing, and in the sale of the product of such manufacturing, mining corporations, wholly engaged in mining ores within this state, agricultural and horticultural socities or associations, and corporations, joint stock companies or associations operating elevated railroads or surface railroads not operated by steam, or formed for supplying water or gas for electric or steam heating, lighting or power purposes, and liable to a tax under sections one hundred and eighty-five and one hundred and

eighty-six of this chapter, shall be exempt from the payment of the taxes prescribed by section one hundred and eighty-two of this chapter. But such a laundrying, manufacturing or mining corporation shall not be exempted from the payment of such tax, unless at least forty per centum of the capital stock of such corporation is invested in property in this state and used by it in its laundrying manufacturing or mining business in this state.

Amended by ch. 558 of 1901. In effect April 26, 1901.

§ 184. **Additional franchise tax on transportation and transmission corporations and associations.**— Every corporation and joint-stock association formed for steam surface railroad, canal steamboat, ferry, express, navigation, pipe-line, transfer, baggage express, telegraph, telephone, palace car or sleeping car purposes, and all other transportation corporations not liable to taxes under sections one hundred and eighty-five or one hundred and eighty-six of this chapter, shall pay for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, an annual excise tax or license fee which shall be equal to five-tenths of one per centum upon its gross earnings within the state, which shall include its gross earnings from its transportation or transmission business originating and terminating within this state, but shall not include earnings derived from business of an interstate character. All settlements for such taxes heretofore based by the comptroller upon gross earnings excluding earnings from interstate business, have been ratified and confirmed, except that the accounts for taxation under section six of chapter three hundred and sixty-one of the laws of eighteen hundred and eighty-one, for the years eighteen hundred and ninety-two and eighteen hundred and ninety-three, shall be settled and adjusted by the comptroller by excluding the earnings of an interstate character as provided by this section.

§ 185. **Franchise tax on elevated or surface railroads not operated by steam.**— Every corporation, joint-stock company or association operating any elevated railroad or surface railroad not operated by steam shall pay to the state for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity within this state, an annual tax which shall be one per centum upon its gross earn-

ings from all sources within this state, and three per centum upon the amount of dividends declared or paid in excess of four per centum upon the actual amount of paid-up capital employed by such corporation, joint-stock company or association. Any corporation, joint-stock company or association taxed under this section which has paid a tax to the state for the year ending November first, eighteen hundred and ninety-five, under section three of chapter five hundred and forty-two of the laws of eighteen hundred and eighty, as amended by chapter five hundred and twenty-two of the laws of eighteen hundred and ninety, shall be credited by the comptroller with one-third of the amount so paid in computing the taxes to be paid for the year ending June thirtieth, eighteen hundred and ninety-six.

§ 186. **Franchise tax on water-works companies, gas companies, electric or steam heating, lighting and power companies.**— Every corporation, joint-stock company or association formed for supplying water or gas, or for electric or steam heating, lighting or power purposes, shall pay to the state for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, an annual tax which shall be five-tenths of one per centum upon its gross earnings from all sources within this state, and three per centum upon the amount of dividends declared or paid in excess of four per centum upon the actual amount of paid-up capital employed by such corporation, joint-stock company or association.

§ 187. **Franchise tax on insurance corporations.**—An annual state tax for the privilege of exercising corporate franchises or for carrying on business in their corporate or organized capacity within this state equal to one per centum on the gross amount of premiums received during the preceding calendar year for business done in this state, whether such premiums were in the form of money, notes, credits, or any other substitute for money, shall be paid annully into the treasury of the state, on or before the first day of June by the following corporations:

1. Every domestic insurance corporation, incorporated, organized or formed under, by, or pursuant to a general or special law;

2. Every insurance corporation, incorporated, organized or formed under, by, or pursuant to the laws of any other state of the United States and doing business in this state, except a corporation doing a fire insurance business or a marine insurance business;

3. Every insurance corporation, incorporated, organized or formed under, by, or pursuant to the laws of any state without the United States, or of any foreign country, except such a corporation doing a life, health or casualty insurance business, and doing business in this state; but the tax on gross premiums of a corporation so incorporated, organized or formed and doing a fire or marine insurance business within the state shall be equal to five-tenths of one per centum. This section does not apply to a fraternal beneficiary society, order or association, a corporation for the insurance of domestic animals, a town or county co-operative insurance corporation, nor to any corporation subject to the supervision of or required by or in pursuance of law to report to the superintendent of banks; but this section does apply to an individual, or partnership, or association of underwriters known as Lloyds, in so far as corporations doing the same kind of insurance business are subject to its provisions. The taxes imposed by this section shall be in addition to all other fees, licenses or taxes imposed by this or any other law, except that in assessing taxes under the reciprocal provisions of section thirty-three of chapter thirty-eight of the general laws, credit shall be allowed for any taxes paid under this section. Any insurance corporation taxed under this section for the year ending December thirty-first, nineteen hundred and one, shall be credited by the comptroller with one-half of the amount of taxes paid by it into the state treasury, under the provisions of section one hundred and eighty-seven of the tax law, for the year ending June thirtieth, nineteen hundred and one. The term "gross premiums" as used in this article shall include, in addition to all other premiums, such premiums as are collected from policies subsequently cancelled and from reinsurance. The term "insurance corporations" as used in this article, shall include a corporation, association, joint stock company or association, person, society, aggregation or partnership by whatever name known doing an insurance business in this state.

Amended by ch. 118 of 1901. In effect Oct. 1, 1901.

§ 187-a. **Franchise tax on trust companies.**—Every first company incorporated, organized or formed under, by or pursuant to a law of this state, and any company authorized to do a trust company's business solely or in connection with any other business, under a general or special law of this state, shall pay to the state annually for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity, an annual tax which shall be equal to one per centum on the amount of its capital stock, surplus, and undivided profits. Any corporation taxed under this section for the year ending June thirtieth, nineteen hundred and one, shall be credited by the comptroller with one-third of the amount of taxes paid by it into the state treasury under the pro-

visions of section one hundred and eighty-two of the tax law for the year ending October thirty-first, nineteen hundred.

Added by ch. 132 of 1901, and amended by ch. 535 of 1901. In effect Apr. 25, 1901.

§ 187-b. **Franchise tax on savings banks.**—Every savings bank incorporated, organized or formed under, by or pursuant to a law of this state, shall pay to the state annually for the privilege of exercising its corporate franchise or carrying on its business in such corporate or organized capacity, an annual tax which shall be equal to one per centum on the par value of its surplus, and undivided earnings.

Added by ch. 117 of 1901. In effect March 16, 1901.

§ 188. **Tax upon foreign bankers.** Every foreign banker doing business in this state, shall annually pay to the treasurer a tax of five per centum on the amount of interest or compensation of any kind earned and collected by him on money loaned, used or employed in this state by such banker. The term, doing a banking business, as used in this section, means doing such business as a corporation may be created to do under article two of the banking law, or doing any business which a corporation is authorized by such article to do. The term, foreign banker doing a banking business in this state, as used in this section, includes:

1. Every foreign corporation doing a banking business in this state, except a national bank.

2. Every unincorporated company, partnership or association of two or more individuals, organized under or pursuant to the laws of another state or country, doing a banking business in this state.

3. Every other unincorporated company, partnership or association, of two or more individuals, doing a banking business in this state, if the members thereof, owning more than a majority interest therein, or entitled to more than one-half of the profits thereof, or who would, if it were dissolved, be entitled to more than one-half of the net assets thereof, are not residents of this state.

4. Every nonresident of this state, doing a banking business in this state, in his own name and right only.

Am'd by Chap. 500 of 1900. In effect April 18, 1900.

§ 189. **Reports of corporations.**—Corporations liable to pay a tax under this article shall report as follows:

1. **Corporations paying franchise tax.**— Every corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter shall, on or before November fifteenth in each year, make a written report to the comptroller of its condition at the close of its business on October thirty-first preceding, stating the amount of its authorized capital stock, the amount of stock paid in, the date and rate per centum of each dividend declared by it during the year ending with such day, the entire amount of the capital of such corporation, and the capital employed by it in this state during such year.

2. **Transportation and transmission corporations.**— Every transportation or transmission corporation, joint-stock company or association liable to pay an additional tax under section one hundred and eighty-four of this chapter, shall also, on or before August first in each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from all sources and the amount of its gross earnings from its transportation or transmission business originating and terminating within this state.

3. **Elevated and surface railroad corporations.**— Every corporation, joint-stock company or association liable to pay a tax under section one hundred and eighty-five of this chapter, shall, on or before August first of each year, make a written report to the comptroller of its condition at the close of its business on June thirtieth preceding, stating the amount of its gross earnings from business done in this state, the amount of dividends of every nature declared or paid during the year ending June thirtieth, the authorized capital of the company and the amount of capital stock actually issued and outstanding.

4. **Water-works, gas, electric, steam heating, lighting and power corporations.**— Every corporation, joint-stock company or association liable to pay a tax under section one hundred and eighty-six of this chapter, shall, on or before December first of each year, make a written report to the comptroller of its condition at the close of its business on October thirty-first pre-

ceding, stating the amount of its gross earnings from business done in this state, the amount of dividends of every nature declared or paid during the year ending with October thirty-first, the authorized capital of the company and the amount of capital stock actually issued and outstanding.

5. **Insurance corporations.**—Every insurance corporation liable to pay a tax under section one hundred and eighty-seven of this chapter, shall, on or before March first in each year, make a written report to the comptroller of its condition at the close of its business on December thirty-first preceding, stating the entire amount of premiums received on business done thereby in this state during the year ending with such day, whether the premiums were in money or in the form of notes, credits or other substitutes for money.

Amended by ch. 118 of 1901. In effect Oct. 1, 1901.

6. **Foreign bankers.**—Every foreign banker liable to pay a tax under section one hundred and eighty-eight of this chapter shall, on or before February first in each year, make a written report to the comptroller of the condition of his business on December thirty-first preceding, stating the amount of tax for which he is liable under this article, and giving in detail the facts required by the last preceding section for the purpose of ascertaining and computing the same.

7. **Trust companies.**—Every company liable to pay a tax under section one hundred and eighty-seven-a of this chapter shall, on or before August first in each year, make a written report to the comptroller of its condition at the close of business on June thirtieth preceding, separately stating the amount of its capital stock, the amount of its surplus, and the amount of its undivided profits, and containing such other data, information or matter as the comptroller may require.

Added by ch. 132 of 1901. In effect March 21, 1901.

This subdivision was inadvertently repealed by chap. 535 of 1901, and revived and re-enacted by ch. 172 of 1902, and deemed to have continued in force since the date it originally took effect.

8. **Savings banks.**—Every savings bank liable to pay a tax under section one hundred and eighty-seven-b of this chapter, shall on or before August first in each year make a written report to the comptroller of its condition, at the close of business on June thirtieth preceding, stating the par value of its surplus, and undivided earnings and containing such other data, information or matter as the comptroller may require.

Added by ch. 117 of 1901. In effect March 16, 1901.
Amended by ch. 132 of 1901. In effect March 21, 1901.

§ 190. **Value of stock to be appraised.**— In case no dividend has been declared, by a corporation, association or joint-stock company liable to pay a tax under section one hundred and eighty-two of this chapter, the treasurer or secretary of the company, shall, under oath, between the first and fifteenth day of November in each year, estimate and appraise the capital stock of such company upon which no dividend has been declared, or upon which the dividend amounted to less than six per centum at its actual value in cash, not less, however, than the average price which said stock sold for during said year, and shall forward the same to the comptroller with the report provided for in the last section. If the comptroller is not satisfied with the valuation so made and returned he is authorized and empowered to make a valuation thereof, and settle an account upon the valuation so made by him, and the taxes, penalties and interest to be paid the state.

§ 191. **Further requirements as to report of corporations.**— Every report required by this article shall have annexed thereto, the affidavit of the president, vice-president, secretary or treasurer of the corporation, association or joint-stock company or of the person or one of the persons, or the members of the partnership making the same, to the effect that the statements contained therein are true. Such reports shall contain any other data, information or matter which the comptroller may require to be included therein, and he may prescribe the form in which such reports shall be made and the form of oath thereto. When so prescribed such form shall be used in making the report. The comptroller may require at any time a further or supplemental report under this article, which shall contain information and data upon such matters as the comptroller may specify.

§ 192. **Powers of comptroller to examine into affairs of corporation.**— In case any report required by any of the preceding sections of this article shall be unsatisfactory to the comptroller, or if any such report is not made as herein required, the comptroller is authorized to make an estimate of the dividends paid by such corporation and the value of the capital stock employed by it, from any such report or from any other data, and to order and state an account according to the estimate and value so made by him for the taxes, percentage and interest due the state from such corporation, association, joint-stock company, person or partnership. The comptroller shall also have power to examine or cause to be examined in case of a failure to report or in case the report is unsatisfactory to him, the books and records of any such corporation, joint-stock association, company, foreign banker, person or partnership, and may hear testimony and take proofs material for his information, either personally or he may appoint a commissioner by a written appointment under his hand and official seal for that purpose. Every commissioner so appointed shall be authorized to make such examination and take such testimony and hear such proofs and report the proofs and testimony so taken and the result of his examination so made and the facts found by him to the

comptroller. The comptroller shall, therefrom, or from any other data which shall be satisfactory to him, order and state an account for the tax due the state, together with the expenses of such examination and the taking of such testimony and proofs. Such expenses shall be fixed and adjusted by the comptroller.

§ 193. **Notice of statement of tax; interest.**— Upon auditing and stating every account for taxes or other charges under this article, the comptroller shall forthwith send notice thereof in writing to the person, partnership, company, association or corporation against whom the same is made, which notice may be mailed to the post-office address of such person, partnership, association, company or corporation. All accounts so audited and stated shall bear interest upon the total amount found due thereon to the state, for taxes, percentage, interest and other charges, from the expiration of thirty days after sending such notice until payment thereof shall be made.

§ 194. **Payment of tax and penalty for failure.**—A tax imposed by sections one hundred and eighty-two or one hundred and eighty-six of this chapter, shall be due and payable into the state treasury on or before the fifteenth day of January in each year. A tax imposed by section one hundred and eighty-four of this chapter on a transportation or transmission corporation, or by section one hundred and eighty-five, on elevated railroads or surface railroads not operated by steam, shall be due and payable into the state treasury on or before the first day of August in each year. A tax imposed by section one hundred and eighty-seven of this chapter on an insurance corporation shall be due and payable into the state treasury on or before the first day of June in each year. A tax imposed by section one hundred and eighty-seven-a or one hundred and eighty-seven-b shall be due and payable into the state treasury on or before the first day of September in each year. A tax imposed by section one hundred and eighty-eight of this chapter on a foreign banker shall be due and payable into the state treasury on or before February first in each year. If such tax in any case is not paid within thirty days after the same becomes due, or if the report of any such corporation is not made within the time required by this article, the corporation, association, joint-stock company, person or partnership, liable to pay the tax, shall pay into the state treasury in addition to the amount of such tax, a sum equal to five per centum thereof, and one per centum additional for each month the tax remains unpaid, which sum shall be added to the tax and paid or collected therewith. Every cor-

poration, association, joint-stock company, person or partnership failing to make the annual report required by this article, or failing to make any special report required by the comptroller, within any reasonable time to be specified by him, shall forfeit to the people of the state the sum of one hundred dollars for every such failure, and the additional sum of ten dollars for each day that such failure continues. Such tax shall be a lien upon and bind all the real and personal property of the corporation, joint-stock company or association liable to pay the same from the time when it is payable until the same is paid in full.

Amended by ch. 558 of 1901. In effect Apr. 26, 1901. This section was al o amended by chs. 118 and 132 of 1901.

§ 195. **Revision and readjustment of accounts by comptroller.**— The comptroller may, at any time within one year from the time any such account shall have been audited and stated, and notice thereof sent to the person, partnership, company, association or corporation against whom it is stated, revise and readjust such account upon application therefor by the party against whom the account is stated or by the attorney-general, and if it shall be made to appear upon any such application by evidence submitted to him or otherwise, that any such account included taxes or other charges which could not have been lawfully demanded, or that payment has been legally made or exacted of any such account, he shall resettle the same according to law and the facts, and charge or credit, as the case may require, the difference, if any, resulting from such revision or resettlement upon the accounts for taxes of or against any such person, partnership, company, association or corporation. Such credit, whether allowed before or after the passage of this act, may be, by the person, partnership, company, association or corporation in whose favor it is allowed, assigned to a person, partnership, company, association or corporation liable to pay taxes under article nine of this act and the assignee of the whole or any part of such credit on filing with the comptroller such assignment shall thereupon be entitled to credit on the books of the comptroller for the amount thereof on the current account for taxes of such assignee in the same way and with the same effect as though the credit had originally been allowed in favor of such assignee. The comptroller shall forthwith send written notice of his determination upon such application to the applicant, and to the attorney-general, which notice may be sent by mail to his post-office address.

Am'd by ch. 642 of 1903.

§ 196. **Review of determination of comptroller by certiorari.**— The determination of the comptroller upon any application made to him by any person, partnership, company, association or corporation for a revision and resettlement of any account, as prescribed in this article, may be reviewed both upon the law and the facts, upon certiorari by the supreme court at the instance of any person, partnership, company, association or corporation affected thereby, and in the name and on behalf

of the people of the state. For the purpose of such review the comptroller shall return, on such certiorari, the accounts and all the evidence before him on such application, and all the papers and proofs upon the original statement of such account and all proceedings thereon. If the original or resettled accounts shall be found erroneous or illegal, either in point of law or of fact, by the supreme court, upon any such review, the accounts reviewed shall then be corrected and restated, and from any determination of the supreme court upon any such review, an appeal to the court of appeals may be taken by either party.

§ 197. **Regulations as to such writ of certiorari.**— No certiorari to review any audit and statement of an account or any determination by the comptroller under this article, shall be granted unless notice of application therefor is made within thirty days after the service of the notice of such determination. Eight days' notice shall be given to the comptroller of the application for such writ. The full amount of the taxes, percentage, interest and other charges, audited and stated in such account must be deposited with the state treasurer before making the application and an undertaking filed with the comptroller in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such writ is dismissed or the determination of the comptroller affirmed, the applicant for the writ will pay all costs and charges which may accrue against him, or it in the prosecution of the writ, including costs of all appeals.

§ 198. **Warrant for the collection of taxes.**—After the expiration of thirty days from the sending by the comptroller of a notice of a settlement of an account as provided in this article, unless the amount of such account shall have been paid or deposited with the state treasurer, if an appeal or other proceedings have been taken to review the same, and the undertaking given as provided in this article, the comptroller may issue a warrant under his hand and official seal, directed to the sheriff of any county of the state, commanding him to levy upon and sell the real and personal property of the person, partnership, company, association or corporation against which such account is stated,

found within his county for the payment of the amount thereof with interest thereon and costs of executing the warrant, and to return such warrant to the comptroller and pay to the state treasurer the money collected by virtue thereof, by a time to be therein specified, not less than sixty days from the date of the warrant. Such warrant shall be a lien upon and shall bind the real and personal property of the person, partnership, company, association or corporation against which it is issued, from the time an actual levy shall be made by virtue thereof. The sheriff to whom any such warrant shall be directed shall proceed upon the same in all respects, with like effect, and in the same manner as prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner.

§ 199. **Information of delinquents.**— It shall be the duty of any person having knowledge of the evasion of taxation under this article by any corporation, association, joint-stock company, partnership or person liable to taxation thereunder, for any omission on their part to make the reports required by this article, to make a written report thereof to the comptroller of the state, with such information as may be in his possession as may lead to the recovery of any taxes due the state therefrom. If, in his opinion, the interests of the state require it, the comptroller may employ such person to assist in the collection and preparation of evidence and in the prosecution and trial of actions for such taxes, and so much of the same, not exceeding ten per centum thereof, as may be collected from any such delinquent corporation, association, company, partnership or person, by reason of such report and such services, as shall have been agreed upon between such person and the comptroller or attorney-general as a compensation therefor, shall be paid to such person, and nothing shall be paid to such person for such report or services unless there shall be a recovery of taxes by reason thereof.

§ 200. **Action for recovery of taxes; forfeiture of charter of delinquent corporation.**— An action may be brought by the attorney-general, at the instance of the comptroller, in the name

of the state, to recover the amount of any account audited and stated by the comptroller under the provisions of this article. If any such account shall remain unpaid at the expiration of one year after notice of the statement thereof has been sent as required by this article, and the comptroller is satisfied that the failure to pay the same is intentional, he shall so report to the attorney-general, who shall immediately bring an action, in the name of the people of the state, for the forfeiture of the franchise of any corporation, joint-stock company or association failing to make such payment, and if it is found that such failure was intentional, judgment shall be rendered in such action for the forfeiture of its franchise and for its dissolution, and thereafter such franchise shall be annulled.

§ 201. **Reports to be made by the secretary of state.**— The secretary of state shall transmit on the first day of each month to the comptroller, a report of the stock corporations whose certificates of incorporation are filed, or of the foreign stock corporations to whom a certificate of authority has been issued to do business in this state, during the preceding month. Such report shall state the name of the corporation, its place of business, the amount of its capital stock, its purposes or objects, the names and places of residence of its directors, and, if a foreign corporation, its place of business within the state. The comptroller may prescribe the forms and furnish the blanks for such reports. The secretary of state shall make like reports to the comptroller whenever required by him relating to any such corporations whose certificates have been filed or to whom a certificate of authority has been issued prior to the time when this article takes effect, and during any period of time specified by the comptroller in his request for such report.

§ 202. **Exemptions from other state taxation.**— The personal property of every corporation, company, association or partnership, taxable under this article, other than for an organization tax, shall be exempt from assessment and taxation upon its personal property for state purposes, and the personal property of every corporation taxable under section one hundred and eighty-seven-a of this article, other than for an organization tax, and as provided in chapter thirty-seven of the general laws, shall be exempt from assessment and taxation for all other purposes, if all taxes due and payable under this article have been paid thereby. The personal property of a private or individual banker, actually employed

in his business as such banker, shall be exempt from taxation for state purposes, if such private or individual banker shall have paid all taxes due and payable under this article. Such corporation and private or individual banker shall in no other respect be relieved from assessment and taxation by reason of the provisions of this article. The owner and holder of stock in an incorporated trust company liable to taxation under the provisions of this act shall not be taxed as an individual for such stock.

The amendment of ch. 132 of 1901 was inadvertently repealed by chap. 535 of 1901 and revived and re-enacted by ch. 172 of 1902 and deemed to have continued in force since the date it originally took effect.

§ 203. **Application of taxes.**—The taxes imposed by this article and the revenues thereof shall be applicable to the general fund of the treasury and to the payment of all claims and demands which are a lawful charge thereon

ARTICLE X

Taxable Transfers.

Section 220. Taxable transfers.
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Section 220. **Taxable transfers.**—A tax shall be and hereby is imposed upon the transfer of any property, real or personal, of the value of five hundred dollars or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations not exempt by law from taxation on real or personal property, in the following cases:

Section 220. **Taxable transfers.**—A tax shall be and is hereby imposed upon the transfer of any property, real or personal, of the value of five hundred dollars or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations not exempt by law from taxation on real or personal property, in the following cases:

1. When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed of the property while a resident of the state.

2. When the transfer is by will or intestate law, of property within the state, and the decedent was a nonresident of the state at the time of his death.

3. When the transfer is of property made by a resident or by a nonresident, when such nonresident's property is within this state, by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death.

4. (Such tax shall be imposed) When any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof by any such transfer, whether made before or after the passage of this act.

5. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, such appointment when made shall be deemed a transfer taxable under the provisions of this act in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer, taxable under the provisions of this act shall be deemed to take place to the extent of such omissions or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

6. The tax imposed thereby shall be at the rate of five per centum upon the clear market value of such property, except as otherwise prescribed in the next section.

[Am'd, ch. 284 of 1897. Took effect May 6, 1897.]

§ 221. Exceptions and limitations.—When property, real or personal, or any beneficial interest therein of the value of less than ten thousand dollars, passes by any such transfer to or for the use of any father, mother, husband, wife, child, brother, sister, wife or widow of a son or the husband of a daughter, or any child or children adopted as such in conformity with the laws of this state, of the decedent, grantor, donor or vendor, or to any child, to whom any such decedent, grantor, donor or vendor for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent, provided, however, such relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter, or to any lineal descendant of such decedent, grantor, donor or vendor born in lawful wedlock, such transfer of property shall not be taxable under this act, if real or personal property or any beneficial interest therein, so transferred is of the value of ten thousand dollars or more, it shall be taxable under this act at the rate of one per centum upon the clear market value of such property. But any property heretofore or hereafter devised or bequeathed to any person

who is a bishop or to any religious corporation including corporations organized exclusively for bible or tract purposes shall be exempted from and not subject to the provisions of this act. There shall also be exempted from and not subject to the provisions of this act personal property other than money or securities bequeathed to a corporation or association organized exclusively for the moral or mental improvement of men or women or for charitable, benevolent, missionary, hospital, infirmary, educational, scientific, literary, library, patriotic, cemetery or historical purposes or for the enforcement of laws relating to children or animals or for two or more of such purposes and used exclusively for carrying out one or more of such purposes. But no such corporation or association shall be entitled to such exemption if any officer, member or employe thereof shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof except reasonable compensation for services in effecting one or more of such purposes or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purpose be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employes or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

Amended by ch. 458 of 1901. In effect Apr. 22, 1901.
Amended by ch. 41 of 1903. In effect Mar. 16, 1903.

§ 222. **Lien of taxes and payment thereof.**—Every such tax shall be and remain a lien upon the property transferred until paid and the person to whom the property is so transferred, and the administrators, executors and trustees of every estate so transferred shall be personally liable for such tax until its payment. The tax shall be paid to the treasurer in a county in which the office of appraiser is not salaried, and in other counties, to the state comptroller and said treasurer or state comptroller shall give, and every executor, administrator or trustee shall take, duplicate receipts from him of such payment. If such duplicate receipts were received from a county treasurer such executor, administrator or trustee shall immediately send one of them to the state comptroller, and if received from the state comptroller he shall immediately send one of them to the state treasurer. The state comptroller or the state treasurer, as the case may be, receiving such receipt shall charge the officer receiving the tax with the amount thereof and seal said receipt with the seal of his office and countersign the same and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts; but no executor, administrator or trustee shall be entitled to a final accounting of an estate in settlement of which a tax is due under the provisions of this act unless he shall produce a receipt so sealed and countersigned, or a certified copy thereof, or unless a bond shall have been filed as prescribed by section two hundred and twenty six of this chapter. All taxes imposed by this article shall be due and payable at the time of the transfer, except as hereinafter provided. Taxes upon the transfer of any estate, property or interest therein limited, conditioned, dependent or determinable upon the happening of any contingency or future event by reason of which the fair market value thereof cannot be ascertained at the time of the transfer as herein provided, shall accrue and become due and payable when the persons or corporations beneficially entitled thereto shall come into actual possession or enjoyment thereof. All taxes which, at the time the amendment to this section takes effect, have been

assessed by an order of the surrogate, or which have accrued, in a county in which the office of appraiser is salaried, shall be paid to the state comptroller, as provided by this article.

Amended by ch. 173 of 1901. In effect Apr. 1, 1901.

§ 223. **Discount, interest and penalty.**—If such tax is paid within six months from the accruing thereof, a discount of five per centum shall be allowed and deducted therefrom. If such tax is not paid within eighteen months from the accruing thereof, interest shall be charged and collected thereon at the rate of ten per centum per annum from the time the tax accrued; unless by reasons of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax can not be determined and paid as herein provided, in which case interest at the rate of six per centum per annum shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten per centum shall be charged. In all cases when a bond shall be given under the provisions of section two hundred and twenty-six of this chapter, interest shall be charged at the rate of six per centum from the accrual of the tax until the date of payment thereof.

§ 224. **Collection of tax by executors, administrators and trustees.**—Every executor, administrator or trustee shall have full power to sell so much of the property of the decedent, as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator or intestate. Any such administrator, executor or trustee having in charge or in trust any legacy or property for distribution subject to such tax shall deduct the tax therefrom; and within thirty days therefrom shall pay over the same to the county treasurer or state comptroller, as herein provided. If such legacy or property be not in money, he shall collect the tax thereon upon the appraised value thereof from the person entitled thereto. He shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this article to any person until he shall have collected the tax thereon. If any such legacy shall be charged upon or payable out of real property, the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor or trustee, and the tax shall remain a lien or charge on such real property until paid, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the legacy might be enforced, or by the

district attorney under section two hundred and thirty-five of this chapter. If any such legacy shall be given in money to any such person for a limited period, the administrator, executor or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of an accounting by him, to make an apportionment, if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 225, **Refund of tax erroneously paid.**—If any debts shall be proven against the estate of a decedent after the payment of any legacy or distributive share thereof, from which any such tax has been deducted or upon which it has been paid by the person entitled to such legacy or distributive share, and such person is required by order of the surrogate having jurisdiction, on notice to the state comptroller, to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer, or state comptroller, of if such tax has been paid to such treasurer or state comptroller, he shall refund out of the funds in his hands or custody to the credit of such taxes such equitable proportion of the tax, and credit himself with the same in the account required to be rendered by him under this article. If after the payment of any tax in pursuance of an order fixing such tax, made by the surrogate having jurisdiction, such order be modified or reversed within two years from and after the date of entry of the order fixing the tax, on due notice to the comptroller of the state, the state comptroller shall, if such tax was paid in a county in which the office of appraiser is not salaried, by order, direct and allow the treasurer of the county, to refund, or if paid in any county, he shall himself refund to the executor, administrator, trustee, person or persons, by whom such tax has been paid, the amount of any moneys paid or deposited on account of such tax in excess of the amount of the tax fixed by the order modified or reversed, out of the funds in his hands or custody, to the credit of such taxes, and to credit himself with the same in the account required to be rendered by him under this act; but no application for such refund shall be made after one year from such reversal or modification, and the comptroller of the state shall deduct from the fees allowed by this article to the county treasurer the amount theretofore allowed him upon such overpayment. Where it shall be proved to the satisfaction of the surrogate who has assessed the tax upon the transfer of property under this article that deductions for debts were allowed upon the appraisal, since proved to have been erroneously allowed, it shall be lawful for such surrogate to enter an order assessing the tax upon the amount wrongfully or erroneously deducted.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 226. **Deferred payment.**—Any person or corporation beneficially interested in any property chargeable with a tax under this article, and executors, administrators and trustees thereof may elect within eighteen months from the date of the transfer thereof as herein provided, not to pay such tax until the person or persons beneficially interested therein shall come into the actual possession or enjoyment thereof. If it be personal property, the person or persons so electing shall give a bond to the state in penalty of three times the amount of any such tax, with such sureties as the surrogate of the proper county may approve, conditioned for the payment of such tax and interest thereon, at such time or period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the surrogate. Such bond must be executed and filed and a full return of such property upon oath made to the surrogate within one year from the date of transfer thereof as herein provided, and such bond must be renewed every five yeers.

[Am'd, ch. 284 of 1897. Took effect May 6, 1897.]

§ 227. **Taxes upon devises and bequests in lieu of commissions.**—If a testator bequeaths or devises property to one or more executors or trustees in lieu of their commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised, above the amount of commissions or allowances prescribed by law in similar cases shall be taxable under this article.

§ 228. **Liability of certain corporations to tax.**—If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of a decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county or the state comptroller on the transfer thereof. No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control securities, deposits, or other assets of a decedent, including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer herein provided, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended delivery or transfer be served upon the state comptroller at least ten days prior to said delivery or transfer; nor shall any such safe deposit company, trust company, corporation, bank or other institution, person or persons deliver or transfer any securities, deposits orother assets of the

estate of a non-resident decedent including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer, without retaining a sufficient portion or amount thereof to pay any tax and penalty which may thereafter be assessed on account of the delivery or transfer of such securities, deposits, or other assets including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer, under the provisions of this article, unless the state comptroller consents thereto in writing. And it shall be lawful for the said state comptroller, personally, or by representative, to examine said securities, deposits or assets at the time of such delivery or transfer. Failure to serve such notice and to allow such examination, and to retain a sufficient portion or amount to pay such tax and penalty as herein provided, shall render said safe deposit company, trust company, corporation, bank or other institution, person or persons liable to the payment of three times the amount of the tax and penalty due or thereafter to become due upon said securities, deposits or other assets including the shares of the capital stock of, or other interests in, the safe deposit company, trust company, corporation, bank or other institution, making the delivery or transfer; and the payments as herein provided shall be enforced in an action brought in accordance with the provisions of section two hundred and thirty-five of this chapter.

Amended by ch. 173 of 1901. In effect April 1, 1901.
Amended by ch. 101 of 1902. In effect March 6, 1902.

§ 229. **Jurisdiction of the surrogate.**—The surrogate's court of every county of the state having jurisdiction to grant letters testamentary or of admistration upon the estate of a decedent whose property is chargeable with any tax under this article, or to appoint a trustee of such estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of this article, and to do any act in relation thereto authorized by law to be done by a surrogate in other matters or procedings coming within his jurisdiction; and if two or more surrogates' courts shall be entitled to exercise any such jurisdiction, the surrogate first acquiring jurisdiction hereunder shall retain the same to the exclusion of every other surrogate. Every petition for ancillary letters testamentary or ancillary letters of administration made in pursuance of the provisions of article seven, title three, chapter eighteen of the code of civil procedure shall set forth the name of the county treasurer in a county in which the office of appraiser is not salaried, and in the other counties the state comptroller, as a person to be cited as therein prescribed, and a true and correct statement of all the decedent's property in this state and the value thereof; and upon the presentation thereof the surrogate shall issue a citation directed to such county treasurer or state comptroller; and upon the return of the citation the surrogate shall determine the amount of the tax which may be or become due under the provisions of this article and his decree awarding the letters may contain any provision for the payment of such tax or the giving of security

therefor which might be made by such surrogate if the county treasurer or state comptroller were a creditor of the decedent.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 230. **Appointment of appraisers, stenographers, et cetera.**—The state comptroller shall appoint and may at pleasure remove, not to exceed five persons in the county of New York; two persons in the county of Kings, and one person in the counties of Albany, Duchess, Erie, Monroe, Oneida, Onondaga, Orange, Queens, Rensselaer, Richmond, Suffolk and Westchester, to act as appraisers therein. The appraisers so appointed shall receive an annual salary to be fixed by the state comptroller, together with their actual and necessary traveling expenses and witness fees, as hereinafter provided, payable monthly by the state comptroller out of any funds in his hands or custody on account of transfer tax. The salaries of each of the appraisers so appointed shall not exceed the following amounts: In New York county, four thousand dollars; in Kings county, three thousand dollars; in Erie county, three thousand dollars; in Westchester county twenty-five hundred dollars; in Albany, Queens, Monroe and Onondaga counties one thousand five hundred dollars; in Duchess, Oneida, Suffolk, Orange and Rensselaer counties one thousand dollars, and in Richmond county five hundred dollars. Each of the said appraisers shall file with the state comptroller his oath of office and his official bond in the penal sum of not less than one thousand nor more than twenty thousand dollars, in the discretion of the state comptroller, conditioned for the faithful performance of his duties as such appraiser, which bond shall be approved by the attorney-general and the state comptroller. The state comptroller shall retain out of any funds in his hands on account of said tax the following amounts: First. A sum sufficient to provide the appraisers of New York county with five stenographers, and of Kings county with one stenographer, appointed by the state comptroller, whose salary shall not exceed fifteen hundred dollars a year each, and the aggregate of whose salaries in New York county shall not exceed six thousand dollars a year. Second. A sum to be used in defraying the expenses for office rent, stationery, postage, process serving, et cetera, necessarily incurred in the appraisal of estates, not exceeding five thousand dollars a year in New York county, and one thousand dollars a year in Kings county. In each county in which the office of appraiser is not salaried the county treasurer shall act as appraiser. The surrogate, either upon his own motion, or upon the application of any interested party, including the comptroller of the state of New York, shall by order direct the county treasurer in a county in which the office of appraiser is not salaried, and in any other county the person

or one of such persons so designated as appraisers to fix the fair market value of property of persons whose estates shall be subject to the payment of any tax imposed by this article. Whenever a transfer of property is made, upon which there is, or in any contingency there may be, a tax imposed, such property shall be appraised at its clear market value immediately upon such transfer, or as soon thereafter as practicable. The value of every future or limited estate, income, interest or annuity dependent upon any life or lives in being, shall be determined by the rule, method and standard of mortality and value employed by the superintendent of insurance in ascertaining the value of policies of life insurance and annuities for the determination of liabilities of life insurance companies, except that the rate of interest for making such computation shall be five per centum per annum. In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporation presently entitled thereto, no allowance shall be made in respect of any contingent incumbrance thereon, nor in respect of any contingency upon the happening of which the estate or property or some part thereof or interest therein might be abridged, defeated or diminished; provided, however, that in the event of such incumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgment, defeat or diminution of said estate or property or interest therein as aforesaid, a return shall be made to the person properly entitled thereto of a proportionate amount of such tax in respect of the amount or value of the incumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed in respect of the actual duration or extent of the estate or interest enjoyed. Such return of tax shall be made in the manner provided by section two hundred and twenty-five of this article. Where any property shall, after the passage of this act, be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of* benefit accruing to any person or corporation upon the extinction or determination of such charge, estate or interest shall be deemed a transfer of property taxable under the provisions of this act in the same manner as though the person or corporation beneficially entitled thereto had then acquired such increase or benefit from the person from whom the title to their respective estates or interests is derived.

* So in original.

When property is transferred in trust or otherwise, and the rights, interest or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this article, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred; provided, however, that on the happening of any contingency whereby the said property, or any part thereof, is transferred to a person or corporation exempt from taxation under the provisions of this article, or to any person taxable at a rate less than the rate imposed and paid, such person or corporation shall be entitled to a return of so much of the tax imposed and paid as is the difference between the amount paid and the amount which said person or corporation should pay under the provisions of this article, with interest thereon at the rate of three per centum per annum from the time of payment. Such return of overpayment shall be made in the manner provided by section two hundred and twenty-five of this article. Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for purposes of taxation, upon which said estates in expectancy may have been limited. Where an estate for life or for years can be divested by the act or omission of the legatee or devisee it shall be taxed as if there were no possibility of such divesting. All estates upon remainder or reversion, which vested prior to May first eighteen hundred and ninety-two, but which will not come into actual possession or enjoyment of the person or corporation beneficially interested therein until after the passage of this act shall be appraised and taxed as soon as the person or corporation beneficially interested therein shall be entitled to the actual possession or enjoyment thereof.

Amended by ch. 493 of 1901. In effect April 23, 1901. This section was also amended by ch. 173 of 1901.

Amended by ch. 496 of 1902.

§ 230a. **Composition of transfer tax upon certain estates.**— The county treasurer of any county in which the office of appraiser is not salaried, by and with the consent of the comptroller of the state of New York, expressed in writing, and the state comptroller in any other county, by and with the consent of the attorney general

expressed in writing, is hereby empowered and authorized in a county in which they receive payments on account of transfer tax, to enter into an agreement with the trustees of any estate therein situate, in which remainders or expectant estates have been of such a nature, or so disposed and circumstanced, that the taxes therein were held not presently payable, or where the interests of the legatees or devisees were not ascertainable under the provisions of chapter four hundred and eighty-three of the laws of eighteen hundred and eighty-five; chapter three hundred and ninety-nine of the laws of eighteen hundred and ninety-two, or chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, and the several acts amendatory thereof and supplemental thereto; and to compound such taxes upon such terms as may be deemed equitable and expedient; and to grant discharge to said trustees upon the payment of the taxes provided for in such composition; provided, however, that no such composition shall be conclusive in favor of said trustees as against the interests of such cestuis que trust, as may possess either present rights of enjoyment, or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto, either personally, when competent, or by guardian or committee. Composition or settlement made or effected under the provisions of this section shall be executed in triplicate, and one copy shall be filed in the office of the state comptroller, one copy in the office of the surrogate of the county in which the tax was paid, and one copy to be delivered to the executors, administrators or trustees who shall be parties thereto.

Added by ch. 173 of 1901. In effect April 1, 1901.

§ 231. **Proceedings by appraiser.**—Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised, including the state comptroller, and to such persons as the surrogate may by order direct, of the time and place when he will appraise such property. He shall, at such time and place, appraise the same at its fair market value as herein prescribed, and for that purpose the said appraiser is authorized to issue subpoenas and to compel the attendance of witnesses before him and to take the evidence of such witnesses under oath concerning such property and the value thereof; and he shall make report thereof and of such value in writing, to the said surrogate, together with the depositions of the witnesses examined, and such other facts in relation thereto and to said matter as the surrogate

may order or require. Every appraiser, except in the counties in which the office of appraiser is salaried, for which provision is hereinbefore made, shall be paid on the certificate of the surrogate, subject to review and audit by the state comptroller, his actual and necessary traveling expenses and the fees paid such witnesses, which fees shall be the same as those now paid to witnesses subpoenaed to attend in courts of record, out of any funds he may have in his hands as county treasurer on account of any tax imposed under the provisions of this article. Appraisers appointed under this article in proceedings pending at the time the amendment to this section takes effect shall complete the appraisals therein and file their reports as herein provided, and shall be entitled to the compensation authorized by law at the time of their appointment, to be paid by the state comptroller in counties in which the office of appraiser is salaried, and in other counties by the county treasurer, out of any moneys in his hands on account of this tax.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 232. Determination of surrogate.—The report of the appraiser shall be made in duplicate, one of which duplicates shall be filed in the office of the surrogate and the other in the office of the state comptroller. From such report and other proof relating to any such estate before the surrogate, the surrogate shall forthwith, as of course, determine the cash value of all estates and the amount of tax to which the same are liable; or the surrogate may so determine the cash value of all such estates and the amount of tax to which the same are liable, without appointing an appraiser. The superintendent of insurance shall, on the application of any surrogate, determine the value of any such future or contingent estates, income or interest therein limited, contingent, dependent or determinable upon the life or lives of persons in being, upon the facts contained in any such appraiser's report, and certify the same to the surrogate, and his certificate shall be conclusive evidence that the method of computation adopted therein is correct. The comptroller of the state of New York or any person dissatisfied with the appraisement or assessment and determination of tax, may appeal therefrom to the surrogate, within sixty days from the fixing, assessing and determination of tax by the surrogate as herein provided, upon filing in the office of the surrogate a written notice of appeal, which shall state the grounds upon which the appeal is taken. The surrogate shall immediately give notice, upon the determination by him as to the value of any estate which is taxable under this article, and of the tax to which it

is liable, to all parties known to be interested therein, including the state comptroller. If, however, it appear at this stage of the proceedings that any of such parties known to be interested in the estate is an infant or an incompetent, the surrogate shall, if the interest of such infant or incompetent is presently involved and is adverse to that of any of the other persons interested therein, appoint a special guardian of such infant; but nothing in this provision shall affect the right of an infant over fourteen years of age or of any one on behalf of an infant under fourteen years of age to nominate and apply for the appointment of a special guardian for such infant at any stage of the proceedings. Within two years after the entry of an order or decree of a surrogate determining the value of an estate and assessing the tax thereon, the comptroller of the state may, if he believes that such appraisal, assessment or determination has been fraudulently, collusively, or erroneously made, make application to a justice of the supreme court of the judicial district in which the former owner of such estate resided, for a reappraisal thereof. The justice to whom such application is made may thereupon appoint a competent person to reappraise such estate. Such appraiser shall possess the powers, be subject to the duties and receive compensation at the rate of five dollars per day for every day actually and necessarily employed in such appraisal. Such compensation shall be payable by the county treasurer or state comptroller, out of any funds he may have on account of any tax imposed under the provisions of this article, upon the certificate of the justice appointing him. The report of such appraiser shall be filed with the justice by whom he was appointed, and thereafter the same proceedings shall be taken and had by and before such justice as are herein provided to be taken and had by and before the surrogate. The determination and assessment of such justice shall supersede the determination and assessment of the surrogate, and shall be filed by such justice in the office of the state comptroller, and a certfiied copy thereof transmitted to the surrogate's court of the proper county.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 233. **Surrogates' assistants in New York county.**—The surrogates of the county of New York may jointly appoint and at pleasure remove assistants as follows:

1. In New York county, a transfer tax assistant, at an annual salary of four thousand dollars; a transfer tax clerk, at an annual salary of two thousand four hundred dollars; an assistant clerk, at an annual salary of eighteen hundred dollars; a recording clerk, at a

salary of thirteen hundred dollars; and shall be entitled to not more than five hundred dollars a year for expenses necessarily incurred in the assessment and collection of taxes under this article. Such salaries and expenses shall be payable monthly by the state comptroller on the certificate and requisition of the surrogates, accompanied by proper vouchers, out of any funds in his hands on account of taxes collected under this article.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 234. **Surrogates' assistants in Kings and certain other counties.**—The surrogates of the counties mentioned in this section may appoint and at pleasure remove assistants as follows:

1. In the county of Kings, a transfer tax assistant, at an annual salary of four thousand dollars, and a transfer tax clerk, at an annual salary of two thousand dollars; and shall be entitled to not more than five hundred dollars a year, for expenses necessarily incurred in the assessment and collection of taxes under this article.

2. In the county of Westchester, a transfer tax assistant, at an annual salary to be fixed by the surrogate, of not more than two thousand dollars.

3. In the county of Suffolk, a transfer tax clerk, at an annual salary of seven hundred and twenty dollars.

4. In the county of Oneida, not more than two transfer tax clerks, at an annual compensation to be fixed by the surrogate, of not more in the aggregate than twelve hundred dollars.

5. In the county of Ulster, a transfer tax clerk, at the annual salary, to be fixed by the surrogate, of not more than seven hundred and twenty dollars.

6. In the county of Onondaga, a transfer tax clerk, at an annual salary, to be fixed by the surrogate, of not more than twelve hundred dollars.

7. In the county of Monroe, two transfer tax clerks, at an annual salary of seven hundred and fifty dollars each; and shall be entitled to not more than two hundred dollars a year for expenses necessarily incurred in the assessment and collection of taxes under this article.

8. In the county of Erie, a transfer tax clerk, at an annual salary of eighteen hundred dollars.

9. In the county of Albany, a transfer tax clerk at an annual salary to be fixed by the surrogate, of not more than one thousand dollars.

10. In the county of Dutchess, a transfer tax clerk, at an annual salary, to be fixed by the surrogate of not more than nine hundred dollars.

Such salaries and expenses shall be payable monthly by the state comptroller on the certificate and requisition of the surrogate of each such county, accompanied by proper vouchers, out of any funds in his hands on account of taxes collected under this article.

Am'd by ch. 173 of 1901. In effect April 1, 1901.
Am'd by ch. 283 of 1902. In effect March 29, 1902.

§ 235. **Proceedings for the collection of taxes.** If the county treasurer or state comptroller shall have reason to believe that any tax is due and unpaid in a county in which he is authorized to receive the tax under this article, after the refusal or neglect of the persons liable therefore to pay the same, he shall notify the district attorney of the county, in writing, of such failure or neglect, and such district attorney, if he have probable cause to believe that such tax is due and unpaid, shall apply to the surrogate's court for a citation, citing the persons liable to pay such tax to appear before the court on the day specified, not more than three months after the date of such citation, and show cause why the tax should not be paid. The surrogate, upon such application, and whenever it shall appear to him that any such tax accruing under this article has not been paid as required by law, shall issue such citation and the service of such citation, and the time, manner and proof thereof, and the hearing and determination thereon and the enforcement of the determination or order made by the surrogate shall conform to the provisions of the code of civil procedure for the service of citations out of the surrogate's court, and the hearing and determination thereon and its enforcement so far as the same may be applicable. The surrogate or his clerk shall, upon request of the district attorney, county treasurer, or the comptroller of the state, furnish, without fee, one or more transcripts of such decree, which shall be docketed and filed by the county clerk of any county of the state without fee, in the same manner and with the same effect as provided by law for filing and docketing transcripts of decrees of the surrogate's court. The costs awarded by any such decree after the collection and payment of the tax to the county treasurer or state comptroller may be retained by the district attorney for his own use. Such costs shall be fixed by the surrogate in his discretion, but shall not exceed in any case where there has not been a contest, the sum of one hundred dollars, or where there has been a contest the sum of two hundred and fifty dollars. Whenever the surrogate shall certify that there was probable cause for issuing a citation and taking the proceedings specified in this section, the state treasurer shall pay or allow to the county treasurer or the state comptroller all expenses incurred for the service of citations and other lawful disbursements not otherwise paid.

In proceedings to which any county treasurer or the state comptroller is cited as a party under sections two hundred and thirty and two hundred any thirty-one of this article, the state comptroller is authorized to designate and retain counsel to represent such county treasurer or state comptroller therein, and to direct such county treasurer in a county in which the office of appraiser is not salaried to pay the expenses thereby incurred out of the funds which may be in his hands on account of this tax, and in any other county the state comptroller shall pay such expenses out of any funds which may be in his hands on account of this tax; provided, however, that in the collection of taxes upon estates of non-resident decedents, which estates have been concealed or the taxes thereon evaded, the state comptroller shall not allow for legal services up to and including the entry of the order of the surrogate fixing the tax a sum exceeding ten per centum of the taxes and penalties collected. And the comptroller of the state is hereby authorized, with the approval of the attorney-general, and a justice of the supreme court of the judicial district in which the former owner resided, to compromise and settle the amount of such tax in any case where controversies have arisen or may hereafter arise as to the relationship of the beneficiaries to the former owner thereof.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 236. **Receipt from the county treasurer and comptroller.**—Any person shall upon the payment of the sum of fifty cents be entitled to a receipt from the county treasurer of any county or the state comptroller, or at his option to a copy of a receipt that may have been given by such treasurer or state comptroller for the payment of any tax under this article, under the official seal of such treasurer or comptroller, which receipt shall designate upon what real property, if any, of which any decedent may have died seized, such tax shall have been paid, by whom paid, and whether in full of such tax. Such receipt may be recorded in the clerk's office of the county in which such property is situate, in a book to be kept by him for that purpose, which shall be labeled "transfer tax."

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 237. **Fees of county treasurer.**—The treasurer of each county in which the office of appraiser is not salaried shall be allowed to retain on all taxes paid and accounted for by him each year under this article, five per centum on the first fifty thousand dollars, three per centum on the next fifty thousand dollars, and one per centum

on all additional sums. Such fees shall be in addition to the salaries and fees now allowed by law to such officers.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 238. **Books and forms to be furnished by the state comptroller.** — The comptroller of the state shall furnish to each surrogate, a book, which shall be a public record, and in which he shall enter the name of every decedent upon whose estate an application to him has been made for the issue of letters of administration, or letters testamentary, or ancillary letters, the date and place of death of such decedent, the estimated value of his real and personal property, the names, places, residence and relationship to him of his heirs-at-law, the names and places of residence of the legatees and devisees in any will of any such decedent, the amount of each legacy and the estimated value of any real property devised therein, and to whom devised. These entries shall be made from the data contained in the papers filed on any such application, or in any proceeding relating to the estate of the decedent. The surrogate shall also enter in such book the amount of the personal property of any such decedent, as shown by the inventory thereof when made and filed in his office, and the returns made by any appraiser appointed by him under this article, and the value of annuities, life estates, terms of years, and other property of any such decedent or given by him in his will or otherwise, as fixed by the surrogate, and the tax assessed thereon, and the amounts of any receipts for payment of any tax on the estate of such decedent under this article filed with him. The state comptroller shall also furnish to each surrogate forms for the reports to be made by such surrogate, which shall correspond with the entries to be made in such book.

§ 239. **Reports of surrogate and county clerk.**—Each surrogate shall, on January, April, July and October first of each year make a report in duplicate, upon the forms furnished by the comptroller containing all the data and matters required to be entered in such book, one of which shall be immediately delivered to the county treasurer and the other transmitted to the state comptroller. The county clerk of each county, except in the counties where the

registers perform the duties of the county clerk with respect to the recording of deeds, and when in such counties the registers, shall, at the same times, make reports in duplicate, containing a statement of any deed or other conveyance filed or recorded in his office, of any property, which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with the name and place of residence of such grantor or vendor, the name and place of residence of the grantee or vendee, and a description of the property transferred, one of which duplicates shall be immediatey delivered to the county treasurer or comptroller and the other transmitted to the state comptroller. In a county in which the office of appraiser is salaried but one copy of each such report need be made, which shall be transmitted to the state comptroller as herein required.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 240. **Reports of county treasurer.**—Each county treasurer in a county in which the office of appraiser is not salaried shall make a report, under oath, to the state comptroller, on January, April, July and October first of each year, of all taxes received by him under this article, stating for what estate and by whom and when paid. The form of such report may be prescribed by the state comptroller. He shall, at the same time, pay the state treasurer all taxes received by him under this article and not previously paid into the state treasury, and for all such taxes collected by him and not paid into the state treasury within thirty days from the times herein required, he shall pay interest at the rate of ten per centum per annum.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 240a. **Report of state comptroller; payment of taxes.**—The state comptroller shall deposit all taxes collected by him under this article in a responsible bank, banking house or trust company in the city of Albany, as, in the opinion of the comptroller are secure, and pay the highest rate of interest to the state for such deposit, to the credit of the state comptroller on account of the transfer tax. And every such bank, banking house or trust company shall execute

and file in his office an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller, for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking-house or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon, or annexed thereto, the approval of the attorney general as to its form. The state comptroller shall on the first day of each month make a verified return to the state treasurer of all taxes received by him under this article, stating for what estate, and by whom and when paid; and shall credit himself with all expenditures made since his last previous return on account of such taxes, for salary, refunds, or other purpose lawfully chargeable thereto. He shall at the same time pay to the state treasurer the balance of such taxes remaining in his hands at the close of business on the last day of the previous month, as appears from such returns.

Added by ch 173 of 1901. In effect April 1, 1901.

§ 241. **Application of taxes.**—All taxes levied and collected under this article when paid into the treasury of the state shall be applicable to the expenses of the state government and to such other purposes as the legislature shall by law direct.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 242. **Definitions.**—The words "estate" and "property", as used in this article, shall be taken to mean the property or interest therein of the testator, intestate, grantor, bargainor or vendor, passing or transferred to those not herein specifically exempted from the provisions of this article, and not as the property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees or vendees, and shall include all property or interest therein, whether situated within or without this state. The word "transfer," as used in this article, shall be taken to include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, devise, bequest, grant, deed, bargain, sale or gift, in the manner herein prescribed. The words "county treasurer," "comptroller," and "district attor-

ney," as used in this article, shall be taken to mean the treasurer, state comptroller or the district attorney of the county of the surrogate having jurisdiction as provided in section two hundred and twenty-nine of this article.

Amended by ch. 173 of 1901. In effect April 1, 1901.

§ 243. **Exemption in article one not applicable.**—The exemptions enumerated in section four of the tax law, of which this article is a part, shall not be construed as being applicable in any manner to the provisions of article ten hereof.

[New.] Added by chap. 382 of 1900. In effect April 11, 1900.

ARTICLE XI.

Procedure.

Section 250. Contents of petition.
251. Allowance of writ of certiorari.
252. Return of writ.
253. Proceeding upon return.
254. Costs.
255. Appeals.
256. Refund of tax paid upon illegal, erroneous or unequal assessment.
257. When county court may apportion tax.
258. Application to county court where taxpayer has removed from the county.
259. Supplementary proceedings to collect a tax.
260. Power of county court when collector fails to pay over.
261. Payment of moneys collected.
262. Collection of deficiency from collector's bondsmen.
263. Attorney-general to bring action for sequestration.
264. Settlement of conflicting claims to surplus of tax sale.

Section 250. **Contents of petition.**—Any person assessed upon any assessment-roll, claiming to be aggrieved by any assessment for property therein, may present to the supreme court a

petition duly verified setting forth that the assessment is illegal, specifying the grounds of the alleged illegality, or if erroneous by reason of overvaluation, stating the extent of such overvaluation, or if unequal in that the assessment has been made at a higher proportionate valuation than the assessment of other property on the same roll by the same officers, specifying the instances in which such inequality exists, and the extent thereof, and stating that he is or will be injured thereby. Such petition must show that application has been made in due time to the proper officers to correct such assessment. Two or more persons assessed upon the same roll who are affected in the same manner by the alleged illegality, error or inequality, may unite in the same petition.

§ 251. Allowance of writ of certiorari.—Such petition must be presented to a justice of the supreme court or at a special term of the supreme court in the judicial district in which the assessment complained of was made, within fifteen days after the completion and filing of the assessment-roll and the first posting or publication of the notice thereof as required by this chapter. Upon the presentation of such petition, the justice or court may allow a writ of certiorari to the officers making the assessment, to review such assessment, and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days, and may be extended by the court or a justice thereof. Such writ shall be returnable to a special term of the supreme court of the judicial district in which the assessment complained of was made. The allowance of the writ shall not stay the proceedings of the assessors or other persons to whom it is directed or to whom the assessment is delivered, to be acted upon according to law.

§ 252. Return to writ.—The officers making a return to such writ shall not be required to return the original assessment-roll or other original papers acted upon by them, but it shall be sufficient to return certified or sworn copies of such roll or papers, or of such portions thereof as may be called for by such writ. The return must concisely set forth such other facts as may be

pertinent and material to show the value of the property assessed on the roll and the grounds for the valuation made by the assessing officers and the return must be verified.

§ 253. Proceedings upon return.— If it shall appear upon the return to any such writ that the assessment complained of is illegal or erroneous or unequal for any of the reasons alleged in the petition, the court may order such assessment, if illegal, to be stricken from the roll, or if erroneous or unequal, it may order a re-assessment of the property of the petitioner, or the correction of his assessment upon the roll, in whole or in part, in such manner as shall be in accordance with law, or as shall make it conform to the valuations and assessments of other property upon the same roll and secure equality of assessment. If upon the hearing it shall appear to the court, that testimony is necessary for the proper disposition of the matter, it may take evidence or may appoint a referee to take such evidence as it may direct, and report the same to the court, with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. A new assessment or correction of an assessment made by order of the court shall have the same force and effect as if it had been so made by the proper officers within the time prescribed by law for making such assessment.

§ 254. Costs.— Costs shall not be allowed against the officers whose proceedings may be reviewed under any such writ unless it shall appear to the court, that they acted with gross negligence or in bad faith or with malice in making the assessment complained of. If the writ shall be quashed or the prayer of the petitioner denied, costs shall be awarded against the petitioner, not exceeding the costs and disbursements taxable in an action upon the trial of an issue of fact in the supreme court.

§ 255. Appeals.— An appeal may be taken by either party from an order, judgment or determination under this article as from an order, and it shall be heard and determined in like manner as appeals in the supreme court from orders. All issues and appeals in any proceeding under this article shall have

preference over all other civil actions and proceedings in all courts.

§ 256. Refund of tax paid upon illegal, erroneous or unequal assessment.— If in a final order in any such proceeding it shall be ordered or adjudged that the assessment complained of was illegal, erroneous or unequal, and such order shall not be made in time to enable the assessors or other officers to make a new or corrected assessment for the use of the board of supervisors, then at the first annual session of the board of supervisors after such correction there shall be audited and allowed to the petitioner and included in the tax levy of such town, village or city, made next after the entry of such order, and paid to the petitioner, the amount paid by him, in excess of what the tax would have been if the assessment had been made as determined by such order of the court, together with interest thereon from the date of payment. In case the amount deducted from such assessment by such order exceeds ten thousand dollars, so much thereof as shall be refunded by reason of such corrected assessment, other than the proportion or percentage thereof collected for such town, village or city purposes, shall be levied upon the county at large and paid to the petitioner without further audit. The board of supervisors shall audit and levy upon such town, village or city, the proportion or percentage of such excess of tax collected for such town, village or city purposes, which shall be collected and paid to the petitioner without other or further audit.

§ 257. When county court may apportion tax — When the premises of one person shall have been wrongfully assessed and taxed in with the premises of another, the person aggrieved thereby may, upon application to the county court of the county in which the property is situated, on petition duly verified, and on eight days' notice to the assessors of the town in which the premises are situated, and to the party whose premises are included in such wrongful assessment, have such assessment and tax apportioned by such county court. The county court shall take such evidence as may be necessary to determine the facts,

and shall fix and specify the amount of the assessment and tax properly chargeable to the petitioner's property, and to the other party chargeable therewith. The collector of the town, upon receiving a copy of the order of the county court, shall forthwith change the assessment-roll and tax to conform to such order, and shall receive the amount apportioned upon the premises of the petitioner in full for the tax upon such property.

§ 258. Application to county court where taxpayer has removed from the county.— If it shall satisfactorily appear by affidavit to the county court of any county that a tax legally levied therein, except upon real property of nonresidents, can not be collected because of the removal of the person taxed to any other county of the state, such court shall, upon application of the collector of any tax district or of the county treasurer of the county, grant an order, directed to the sheriff of the county where such person may be, to collect the same out of his personal property, with interest at the rate of eight per centum per annum from the date of said order. Such order shall be filed in the office of the clerk of the county in which it is granted, and a certified copy thereof delivered to the constable or sheriff of the county where the person liable for the tax may be, and such constable or sheriff, on receiving the same shall execute it, and make a like return, and be entitled to the same fees and subject to the same liabilities and penalties for neglect as upon execution from any court of record. The sheriff receiving such moneys shall pay the same to the county treasurer of the county where it was levied, to the credit of the town in which it was assessed. This provision shall also apply to taxes levied upon rents reserved as upon personal property where such taxes remain unpaid.

§ 259. Supplementary proceedings to collect tax.— If a tax exceeding ten dollars in amount levied against a person or corporation is returned by the proper collector uncollected for want of personal property out of which to collect the same, the supervisor of the town or ward, or the county treasurer or the president of the village, if it is a village tax, may, within one year thereafter, apply to the court for the institution of proceedings

supplementary to execution, as upon a judgment docketed in such county, for the purpose of collecting such tax and fees, with interest thereon from the fifteenth day of February after the levy thereof. Such proceedings may be taken against a corporation, and the same proceedings may thereupon be had in all respects for the collection of such tax as for the collection of a judgment by proceedings supplementary to execution thereon against a natural person, and the same costs and disbursements may be allowed against the person or corporation examined as in such supplementary proceedings but none shall be allowed in his or its favor. The tax, if collected in such proceeding, shall be paid to the county treasurer or to the supervisor of the town, and if a village tax, to the treasurer of the village. The costs and disbursements collected shall belong to the party instituting the proceedings, and shall be applied to the payment of the expense of such proceeding. The president of a village and a county treasurer shall have no compensation for any such proceeding. A supervisor shall have no other compensation except his per diem pay for time necessarily spent in the proceeding.

§ 260. **Power of county court when collector fails to pay over.**— If any collector shall neglect or refuse to pay over the moneys collected by him, to any of the persons to whom he is required to pay the same by his warrant, or to account for the same as unpaid, the county court, on proof of such fact by affidavit, on application of the county treasurer, shall make an order directed to the sheriff of the county, commanding him to levy such sum as shall remain unpaid by such collector out of his property, personal and real, and pay the same to the county treasurer, within sixty days from the date of such order. The sheriff shall cause the same to be executed, and pay to the county treasurer the money levied by virtue thereof, deducting for his fees the same compensation that the collector would have been entitled to retain. If the whole sum due from the collector, or if a part only, or if no part thereof, shall be collected, the sheriff shall state the fact in his return, which shall be made as in the case of an execution, and the county treasurer shall give notice to the supervisor of the town, city or division thereof, of any amount which may remain due from such collector. If the sheriff shall neglect to

execute the order, or to pay over the money collected thereon, within the time limited thereby, he shall be liable therefor as in case of an execution, and the county treasurer shall immediately prosecute such sheriff and his sureties for the sum due from him, which sum when collected shall be paid into the county treasury.

§ 261. Payment of moneys collected.— The county treasurer shall pay over the moneys received from the sheriff upon such order in the manner directed by the warrant to the collector. If the whole amount of moneys due from the collector shall not be collected on such warrant, or otherwise, the county treasurer shall first retain the amount which ought to have been paid to him before making any payment to the town officers.

§ 262. Collection of deficiency from collector's bondsmen.— If it appears that the whole or any part of the moneys due from the collector has not been thus collected, the county treasurer shall forthwith give notice to the supervisor of the town or ward of the amount still due from such collector. The supervisor shall forthwith cause the undertaking of the collector to be prosecuted, and shall be entitled to recover thereon, the sum due from the collector with costs of the action. The moneys received shall be applied and paid by the supervisor in the same manner as they should have been by the collector.

§ 263. Attorney-general to bring action for sequestration.— It shall be the duty of the attorney-general, on being informed by the comptroller or by the county treasurer of any county that any incorporated company refuses or neglects to pay the taxes imposed upon it, pursuant to articles one and two of this chapter, to bring an action in the supreme court for the sequestration of the property of such corporation and the court may so sequestrate the property of such corporation for the purpose of satisfying taxes in arrears, with the costs of prosecution, and may, also, in its discretion, enjoin such corporation and further proceedings under its charter until such tax and the costs incurred in the action shall be paid. The attorney-general may recover such tax with costs from such delinquent corporation by action in any court of record.

§ 264. **Settlement of conflicting claims to surplus of tax sale.**—Whenever a surplus from the sale of any property, for unpaid taxes in the hands of the supervisor of a town, shall be claimed by any person, other than the person for whose tax such property was sold, and such claim shall not be settled by a stipulation filed with the supervisor, as provided by this chapter, such claimant may maintain an action against such person, or such person may maintain an action against such claimant, to recover such money and, for the purposes of such action, the defendant shall be deemed to be in possession of the surplus in the hands of the supervisor. Upon the production of a certified copy of a final judgment, rendered in favor of either party, the supervisor shall pay such surplus to the party recovering the same. No other cause of action shall be joined, nor any set-off or counter-claim be allowed in an action brought pursuant to this section, and if an execution issue on a judgment rendered in such action, it shall direct that the costs only of such judgment be levied thereon.

ARTICLE XII.

Laws Repealed; When to take effect.

Section 280. Laws repealed.
281. When to take effect.

§ 280. **Laws repealed.**—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed.

§ 281. **When to take effect.**—This chapter shall take effect June fifteenth, eighteen hundred and ninety-six.

ARTICLE XIII.

Section 282. Limitation of time.

§ 282. **Limitation of time.**—The provisions of the Code of Civil Procedure, relative to the limitation of time of enforcing a civil remedy, shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax or penalty prescribed by articles nine or ten of said chapter, and this act shall be construed as having been in effect as of date of the original enactment of the corporation and inheritance tax law, provided, however, that as to real estate in the hands of bona fide purchasers, the transfer tax shall be presumed to be paid and cease to be a lien as against such purchasers after the expiration of six years from the date of accrual. This act shall not affect any action or proceeding now pending.

Am'd by ch. 737 of 1899.

SCHEDULE OF LAWS REPEALED.

REVISED STATUTES.		Sections.
Part 1, ch. 13		All, except § 7 of tit. VI.
Part III, ch. 8, tit. XVII		§§ 28, 29, 30.
LAWS OF—	Chapter.	
1835	11	All.
1836	461	All.
1841	341	All.

LAWS OF —	Chapter.	Sections.
1842	154	All.
1842	318	All.
1845	180	29, 30, 31, 32.
1846	327	All.
1847	455	16.
1847	482	All.
1849	180	All.
1851	176	All.
1851	371	All.
1852	46	All.
1852	282	All.
1853	69	All.
1853	406	All.
1853	469	All.
1854	393	All.
1855	37	All.
1855	83	All.
1855	327	All.
1855	427	All.
1856	183	All.
1857	7	All.
1857	456	All.
1857	536	All.
1857	585	All.
1858	110	All.
1858	357	All.
1859	312	All.
1860	209	All.
1862	194	All.
1862	285	1.
1865	453	All.
1866	136	All.
1866	528	All.
1866	820	All.
1867	361	All.
1867	694	All.
1868	575	All.

LAWS OF—	Chapter.	Sections
1869	859	All.
1870	280	All.
1870	325	All.
1870	492	Extract from § 2, authorizing comptroller to designate papers in which notice of sale of lands for nonpayment of taxes shall be published.
1870	506	2, 3, 4, 5.
1871	110	All.
1873	327	All.
1873	809	All.
1874	351	All.
1875	331	All.
1875	466	All.
1875	474	All.
1876	49	All.
1876	96	All.
1876	101	All.
1878	152	All.
1879	492	All.
1880	80	All.
1880	91	All.
1880	269	All.
1880	327	All.
1880	448	All.
1880	542	All.
1880	552	All.
1881	8	All.
1881	166	All.
1881	293	All.
1881	361	All.

LAWS OF—	Chapter.	Sections.
1881	402	5.
1881	433	All.
1881	640	All.
1882	151	All.
1882	409	312-327, inclusive.
1883	342	All.
1883	392	All.
1883	397	All.
1883	464	All.
1884	57	All.
1884	153	All.
1884	280	All.
1884	353	All.
1884	414	All.
1884	435	All.
1884	537	All.
1885	10	All.
1885	32	All.
1885	201	All.
1885	215	All.
1885	340	12.
1885	359	All.
1885	411	All.
1885	453	All.
1885	501	All.
1886	59	All.
1886	102	All.
1886	143	All.
1886	266	All.
1886	315	All.
1886	659	1, 2, 3, 5, 6.
1886	679	All.
1887	284	All.
1887	342	All.
1888	110	All.
1889	191	All.

LAWS OF—	Chapter.	Sections.
1889	193	All.
1889	353	All.
1889	462	All.
1889	463	All.
1889	469	All.
1889	563	All.
1890	145	All.
1890	174	All.
1890	206	All.
1890	497	All.
1890	522	All.
1890	553	All.
1890	556	All.
1891	163	All.
1891	211	All.
1891	218	All.
1892	196	All.
1892	202	1.
1892	266	All.
1892	347	All.
1892	399	All.
1892	463	All.
1892	477	All.
1892	529	All.
1892	565	All.
1892	661	All.
1892	668	All.
1892	713	All.
1892	714	All.
1893	199	All.
1893	498	All.
1893	525	All.
1893	704	All.
1893	711	All.
1894	196	All.
1894	312	All.

LAWS OF —	Chapter.	Sections.
1894	562	All.
1894	713	All.
1895	378	All.
1895	418	All.
1895	425	All.
1895	515	All.
1895	556	All.
1895	558	All.
1895	608	All.
1895	895	All.
1895	861	All.
1896	852	All.
1896	853	All.
1897	375	All.
1899	269	All.
1899	270	All.
1899	406	All.
1900	379	All.
Fisheries, Game and Forest Law		274.

CHAP. 952 of 1896.

AN ACT to amend chapter three hundred and ninety-nine of the laws of eighteen hundred and ninety-two, entitled "An act in relation to taxable transfers of property," as amended by chapter five hundred and fifteen of the laws of eighteen hundred and ninety-five.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section fourteen of chapter three hundred and ninety-nine of the laws of eighteen hundred and ninety-two, entitled "An act in relation to taxable transfers of property," as amended by chapter five hundred and fifteen of the laws of eighteen hundred and ninety-five, is hereby amended so as to read as follows:

§ 14. **Surrogate's and district attorney's assistants in New York city, Erie and Monroe counties.**—The comptroller of the city and county of New York shall retain, out of any funds he may have in his hands on account of said tax, a sum of money sufficient to provide the surrogates in the city and county of New York with an assistant, appointed by said surrogates, who shall be known as the transfer tax assistant, whose salary shall be four thousand dollars a year; a transfer tax clerk, whose salary shall be two thousand four hundred dollars a year; an assistant clerk, whose salary shall be one thousand eight hundred dollars a year, and a recording clerk, whose salary shall be one thousand three hundred dollars a year, said salaries to be paid monthly; and a further sum of money, not exceeding five hundred dollars a year, to be used to pay the expenses of the said surrogates necessarily incurred in the assessment and collection of said tax, said amounts to be paid upon the certificates and requisitions of said surrogates respectively. The comptroller of the city and county of New York shall also retain, out of any funds he may have in his hands on account of said tax, a sum of money sufficient to provide the district attorney of the city and county of New York with an assistant, appointed by said district attorney, who shall be known as the transfer tax assistant, whose salary shall be three thousand dollars a year; a transfer tax clerk, whose salary shall be two thousand four hundred dollars a year, and a surrogate's process server, whose salary shall be one thousand two hundred dollars a year, said salary to be paid monthly; and a further sum of money, not exceeding five hundred dollars a year, to be used to pay the expenses of the said district attorney for the conduct and prosecution of the proceedings mentioned in section fifteen of this act, said amounts to be paid upon the certificate and requisition of said district attorney. The county treasurer of the county of Erie shall also retain out of any funds he may have in his hands on account of said tax, a sum of money sufficient to provide the district attorney in the county of Erie with an assistant, appointed by the said district attorney, who shall be known as the transfer tax assistant, whose salary shall be two thousand dollars a year, said salary to be paid monthly. The county treasurer of the county of Monroe shall also retain, out of any funds he may have in his hands on account of said tax, a sum of money sufficient to provide the surrogate of the county of Monroe with two clerks, to be appointed by said surrogate, and known as transfer tax clerks and whose salary shall be seven hundred and fifty dollars per year each, payable monthly by the treasurer of the said county upon the certificate of the said surrogate; and also a further sum of money, not exceeding two hundred dollars a year, to be used to pay the expenses of the said surrogate of Monroe county necessarily incurred in the assessment and collection of said tax, and to be paid upon the itemized requisition of the said surrogate.

§ 2. **This act shall take effect immediately.**

CHAP. 820 OF 1896.

AN ACT authorizing boards of supervisors to appoint commissioners for the equalization of taxes.

Became a law May 21, 1896, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The board of supervisors of any county of the state may by the concuring vote of a majority of all the supervisors elected to such board, resolve to appoint three persons to be commissioners of equalization of such county. They shall thereupon appoint such commissioners, two of whom shall be residents of such county and not members of the board of supervisors, and the third commissioner shall not be a resident of or a taxpayer in such county, but shall reside in the judicial district in which such county is situated. If there be one or more cities in such county one of such commissioners shall be a resident of such city or cities and one shall be a resident of the towns in such county outside or such city or cities. The commissioner appointed from such city or cities shall be named by the supervisors representing such city or cities, and the commissioner appointed from the towns outside of such city or cities shall be named by the supervisors representing such towns. Both such commissioners including the third commissioner appointed from the judicial district outside of such county, shall be confirmed by a two-thirds vote of all the members of the board of supervisors. If, after such board has resolved to appoint such commissioners of equalization, they are unable to agree upon the commissioners to be appointed as provided by this section, and such commissioners are not appointed before the first day of July, succeeding the time when such resolution was adopted, the clerk of such board shall apply to the county judge of such county certifying to him the fact that such resolution was adopted and such commissioners have not been appointed pursuant thereto and such county judge shall appoint the commissioners subject to the provisions of this section relating to their places of residence. The term of office of each such commissioners shall be three years. Not more than one commissioner shall reside in the same town or city, and if a commissioner remove to a town or city in which another commissioner resides, the office of the commissioner

so removing shall thereon become vacant. Such appointments shall be so made that not more than a majority of the commissioners belong to the same political party, and the other commissioner shall be chosen from the other political party polling in such county at the last general election either the highest or the next highest number of votes. If the office of any commissioner become vacant before the expiration of his term, such vacancy shall be filled, for the unexpired term, by the appointment of a person of the same political faith as his predecessor at the time of his appointment. Each commissioner shall be paid by the county for his services, a sum to be fixed by the board of supervisors, not exceeding the rate of four dollars per day, for the time necessarily and actually occupied in the performance of his duties, and his necessary and reasonable expenses incurred while absent from his home in the discharge of his duties, but the total amount paid to any commissioner for his services and expenses in any one year shall not exceed three hundred dollars.

§ 2. Between the first day of September and the time of the annual meeting of the board of supervisors in each year, the commissioners shall examine the assessment-rolls of the several towns in their county and shall visit each town therein for the purpose of ascertaining whether the valuations in one town or ward bear a just relation to the valuations in all the towns and wards in the county, and they may increase or diminish the aggregate valuations of real estate in any town or ward by adding or deducting such sum upon the hundred as may, in their opinion, be necessary to produce a just relation between all the valuations of real estate in the county, but they shall in no instance reduce the aggregate valuations of all the towns and wards below the aggregate valuations thereof as made by the assessors. If the office of any commissioner become vacant before the expiration of his term, such vacancy shall be filled for the unexpired term by the appointment of a person of the same political faith as his predecessor at the time of his appointment.

[Am'd ch. 265 of 1898.]

§ 3. On or before the fourth day of the annual meeting of the board of supervisors in each year the commissioners shall file with the clerk of such board of supervisors their report of the equalized valuations of real estate, signed by a majority of such commissioners, and the same shall be binding and conclusive on such board of supervisors as an equalization of the assessments of real estate for such year.

§ 4. This act shall take effect immediately.

CHAP. 641 OF 1898.

AN ACT to authorize the appointment of a commission to inquire into the expediency of revising and amending the statutes relating to the taxation of property in the state of New York, and to suggest legislation thereon.

SECTION 1. Within thirty days after this act takes effect the governor shall appoint, by and with the advice and consent of the senate, a commission of five persons to collate and report facts concerning the taxation of property, together with a summary of conclusions to be drawn therefrom, and to suggest such changes as they deem advisable in the statutes of the state relating thereto. Said commission shall have authority to employ stenographers and other necessary assistants, and to send for persons and papers, and to compel the attendance of any person before them at any place within the state. They shall make and present their final report to the legislature on or before January fifteenth, eighteen hundred and ninety-nine, and shall present therewith such bill or bills as may be necessary to carry into effect the changes deemed advisable by them.

§ 2. Each of said commissioners shall be a resident and inhabitant of the state of New York. They shall receive the necessary expenses and disbursements incurred in the performance of the duties herein imposed, when the same are properly audited by the comptroller of the state, and the same, when so audited, shall be paid by the warrant of the comptroller out of the moneys in the treasury, not otherwise appropriated.

§ 3. This act shall take effect immediately.

Chap. 379.

AN ACT to provide for the composition of transfer tax upon certain estates.

Became a law, April 11, 1900, with the approval of the Governor. Passed, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The county treasurer of any county, and the comptroller of the city of New York, by and with the consent of the comptroller of the State of New York, expressed in writing, is hereby empowered and authorized in the county in which they now receive payments on account of transfer tax, to enter into an agreement with the trustees of any estate therein situate, in which remainders or expectant estates have been of such a nature, or so disposed and circumstanced, that the taxes therein were held not presently payable, under the provisions of chapter four hundred and eighty-three of the laws of eighteen hundred and eighty-five; chapter three hundred and ninety-nine of the laws of eighteen hundred and ninety-two, or chapter nine hundred and eight of the laws of eighteen hundred and ninety-six, and the several acts amendatory thereof and supplemental thereto; and to compound such taxes upon such terms as may be deemed equitable and expedient; and to grant discharges to said trustees upon the payment of the taxes provided for in such composition, provided, however, that no such composition shall be conclusive in favor of said trustees as against the interests of such cestuis que trust, as may possess either present rights of enjoyment, or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto, either personally, when competent, or by guardian or committee.

§ 2. Composition or settlement made or effected under the provisions of this act shall be executed in triplicate, and one copy shall be filed in the office of the state comptroller, one copy in the office of the surrogate of the county in which the tax was paid and one copy to be delivered to the executors, administrators or trustees who shall be parties thereto.

§ 3. This act shall take effect immediately.

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